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# SPECIAL DISTRICTS



## 2006 ELECTIONS SPECIAL DISTRICT ELECTION MANUAL

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Department of Local Affairs  
1313 Sherman Street, Room 521  
Denver, Colorado 80203  
303-866-2156  
[www.dola.state.co.us](http://www.dola.state.co.us)

# **2006 ELECTIONS**

## **SPECIAL DISTRICT ELECTION MANUAL**

**Department of Local Affairs**  
Division of Local Government  
1313 Sherman Street, Room 521  
Denver, Colorado 80203  
(303) 866-2156

Michael L. Beasley, Executive Director  
Kerry Ann Dwyer, Election Officer

## PREFACE

The Department of Local Affairs' Division of Local Government is mandated by state statute (C.R.S. 1-1-108) to provide Title 32 Article 1 special districts a copy of the election laws. The **2006 Elections – Special District Election Manual** ensures that each district has the information needed to conduct or properly cancel its regular biennial election in May of even-numbered years. It is required to be in the hands of each special district by January 15 of even-numbered years. The provision of this manual, however, is not to be construed as legal advice.

This manual contains the election laws and related information. For efficiency, only those portions of Title 1 and Title 32, Article 1 statutes that relate to nonpartisan elections are included here. The manual is divided into five sections: Election Calendar, Title 1 Election Laws, Title 32 Article 1 - Relevant Statutes, Title 1 Article 45 – Fair Campaign Practices Act; Colorado Secretary of State's Election Rules; Sample Forms and the Election Judges Workbook. The entire document is also available on the Department of Local Affairs' web site – [www.dola.state.co.us](http://www.dola.state.co.us)

The calendar provides a good overall timeline of the election process and can serve as a guide for proceeding through the entire process. It includes the deadline date by which a specific task is to be completed, the statute that relates to the task and the page number of the form, if a form is necessary to complete the task.

You will find the Secretary of State – Election Rules a very useful tool in conjunction with the election laws to insure that your election is run smoothly and efficiently.

There are 56 pages of sample forms and resolutions that can be used to meet statutory requirements. Where useful, procedural instructions have been included at the bottom of the form. The Division of Local Government developed these sample forms as a convenience to special districts. These sample forms were written using relevant statutory citations and election forms from other local governments. Districts are **not** required to use these specific forms. A district wanting to develop its own forms may want to consult with legal counsel.

Also included is the Election Judge Handbook. This workbook was written to be used as a guide for the election judges training and to be used by election judges at the polling place. Forms referenced in the workbook are located in forms section.

Staff in the Division of Local Government are available to provide technical assistance throughout the election process. In addition, staff will also be available on election day, Tuesday, May 2, 2006 from 6:00 AM to 8:00 PM. Please call (303) 866-2156 if you have any questions.

In addition, a series of election training workshops has been scheduled throughout the state beginning in December 2005 through January 2006. The department's web site has information on dates, locations and agenda – [www.dola.state.co.us](http://www.dola.state.co.us)

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# **SPECIAL DISTRICT ELECTION CALENDAR**

**MAY 2, 2006**



# SPECIAL DISTRICT ELECTION CALENDAR FOR MAY 2, 2006

(NOTE: The necessary forms are identified as “B#” and are to be found in the 2006 Election - Special District Election Manual which is available from the Department of Local Affairs’ web site: [www.dola.state.co.us](http://www.dola.state.co.us) )

DATE/FORM	ACTION
<b>JANUARY 2, 2006</b>  <i>B-17</i>	<b>Absentee ballot applications</b> Earliest day to apply for an absentee ballot.  C.R.S. § 1-8-104(3)
<b>FEBRUARY 1-16, 2006</b> No more than 90 and not less than 75 days  <i>B-2</i>	<b>Call for nominations.</b> Not less than seventy-five (75) days nor more than ninety (90) days before a regular special district election, the designated election official shall provide notice by publication of a call for nominations for the election.  C.R.S. § 32-1-804.1
<b>FEBRUARY 24, 2006</b> Not less than 67 days  <i>B-3</i>          <i>B-3</i>	<b>Candidates for director - self-nomination and acceptance form.</b> (1) Not less than sixty-seven (67) days before the date of the regular special district election, any person who desires to be a candidate for the office of a special district director shall file a self-nomination and acceptance form or letter signed by the candidate and by a registered elector as a witness to the signature of the candidate.  (3) A self-nomination and acceptance form that is not sufficient may be amended once at any time prior to 3 p.m. on the sixty-seventh (67) day before the election.  (5) The self-nomination and acceptance form or letter shall be filed with the designated election official or, if none has been designated, the presiding officer or the secretary of the board of directors of the special district in which the election will be held.  C.R.S. § 32-1-804.3  <b>Fair Campaign Practices Act - candidate affidavit – disclosure statement .</b> (1) ....a candidate in a special district election shall file the candidate affidavit or, alternatively, a copy of the candidate's self-nomination and acceptance form or letter submitted in accordance with section 32-1-804.3, C.R.S., if such form or letter contains a statement that the candidate is familiar with the provisions of this article...  C.R.S. § 1-45-110
<b>FEBRUARY 27, 2006</b> Close of business on the 64 <sup>th</sup> day  <i>B-7</i>	<b>Write-in candidate affidavit of intent.</b> (1) Any person who wishes to be a write-in candidate for any office in any election shall file an affidavit of intent stating that he or she desires the office and is qualified to assume its duties if elected. The affidavit of intent shall be filed with the designated election official if it is for a local office.  C.R.S. § 1-4-1101  <b>Time of filing affidavit.</b> (2) In a nonpartisan election, the affidavit of intent shall be filed by the close of business on the sixty-fourth (64) day before the election.  C.R.S. § 1-4-1102
<b>FEBRUARY 28, 2006</b> Close of business on the 63 <sup>rd</sup> day  <i>B-8</i> <i>B-9</i> <i>B-10</i> <i>B-11</i> <i>B-12</i>	<b>Election may be canceled - when.</b> (1.5) If the only matter before the electors in a nonpartisan election is the election of persons to office and if, at the close of business on the sixty-third (63) day before the election, there are not more candidates than offices to be filled at the election, including candidates filing affidavits of intent, the designated election official, if instructed by resolution of the governing body, shall cancel the election and declare the candidates elected.  (6) The governing body shall provide notice by publication of the cancellation of the election. A copy of the notice shall be posted at each polling place of the political subdivision, in the office of the designated election official, and in the office of the clerk and recorder for each county in which the political subdivision is located and, for the special districts, a copy of the notice shall be filed in the office of the division of local government. The governing body shall also notify the candidates that the election was canceled and that they were elected by acclamation.  C.R.S. § 1-5-208

<b>FEBRUARY 28, 2006</b> On the 63 <sup>rd</sup> day  B-55	<b>Official abstract of votes - nonpartisan elections.</b> (2) If the election is canceled pursuant to section C.R.S. § 1-5-208, the designated election official shall note the cancellation and the declared winner on the certified statement of results and abstract of votes cast, if one is prepared.  C.R.S. § 1-10-203(2)
<b>MARCH 3, 2006</b> No later than 60 days	<b>Certification of ballot.</b> (3) No later than sixty (60) days before a nonpartisan election, the designated election official of each political subdivision which intends to conduct an election shall certify the order of the ballot and ballot content. The order of the ballot and ballot content shall include the name and office of each candidate for whom a petition has been filed with the designated election official and any ballot issues or ballot questions to be submitted to the eligible electors. C.R.S. § 1-5-203(a)  <i>RECOMMENDATION: Initiate contact with other overlapping districts concerning the coordination of polling places and mailing of TABOR Notice.</i>
<b>MARCH 8, 2005</b>   No later than 55 days before	<b>Mail Ballot Election –optional.</b> (1) If the governing board of any political subdivision determines that an election shall be by mail ballot, the designated election official for the political subdivision shall conduct any election for the political subdivision by mail ballot under the supervision of the secretary of state and shall be subject to rules which shall be promulgated by the secretary of state.  C.R.S. § 1-7.5-104  <b>Mail Ballot Election – pre-election process.</b> (1) The designated election official responsible for conducting an election that is to be by mail ballot pursuant to section 1-7.5-104(1) shall notify the secretary of state no later then fifty-five (55) days before the election. The notification shall include a proposed plan for conducting the mail ballot election, which may be based on the standard plan adopted by the secretary of state.  C.R.S. § 1-7.5-105
<b>MARCH 17, 2006</b> No later than 45 days  B-23 B-24	<b>Appointment of election judges for nonpartisan elections.</b> (1.5) No later than forty-five (45) days before a regular special district election, the designated election official shall appoint election judges for the special district unless otherwise directed by the board of directors of such district. <i>(The Provisional Ballot Board, comprised of two qualified election judges, may also be appointed at this time.)</i>  C.R.S. § 1-6-105  <b>TABOR Election - receipt of comments concerning ballot issues.</b> (1) Each political subdivision shall accept written comments concerning ballot issues in accordance with this section.  (4) Since section 20 (3) (b) (v) of article X of the state constitution requires that comments pertaining to a ballot issue be filed by forty-five (45) days before the election and since the forty-fifth (45) day before any ballot issue election is always a Sunday, all comments shall be filed by the end of the business day on the Friday before the forty-fifth (45) day before the election.  C.R.S. § 1-7-901
<b>MARCH 23, 2006</b> No later than 40 <sup>th</sup> day	<b>Registration records for nonpartisan elections.</b> (1) No later than the fortieth (40) day preceding the date of the scheduled nonpartisan election, the designated election official shall order the registration records.  C.R.S. § 1-5-303  <b>Lists of property owners.</b> The designated election official shall order the list of property owners from the county assessor.  C.R.S. § 1-5-304  <b>TABOR Election - preparation of written comments.</b> (4) If no comments are filed in opposition to or in support of a ballot issue, the designated election official shall not prepare any summaries and shall state substantially the following in the ballot issue notice where the summary or summaries would appear: No comments were filed by the constitutional deadline. <i>(Please note there is not a statutory deadline given for this to be completed, this is a suggested date to assist you in meeting the deadline for mailing your TABOR Notice no later than April 3.)</i>  C.R.S. § 1-7-903





<p><b>APRIL 7, 2006</b> No later than 25 days</p> <p><i>B-15</i> <i>B-16</i></p>	<p><b>Establishing precincts and polling places for nonpartisan elections.</b> (1) For nonpartisan elections other than coordinated elections, no later than twenty-five (25) days prior to the election, the designated election official, with the approval of the governing body with authority to call elections, shall divide the jurisdiction into as many election precincts as it deems expedient for the convenience of eligible electors of the jurisdiction and shall designate the polling place for each precinct. C.R.S. § 1-5-102</p> <p><b>Mail Ballot Election. - procedures for conducting mail ballot election.</b> (3) (a) Not sooner than twenty-five (25) days before an election, and no later than fifteen (15) days before an election, the designated election official shall mail to each active registered elector, at the last mailing address appearing in the registration records and in accordance with United States postal service regulations, a mail ballot packet, which shall be marked "DO NOT FORWARD. ADDRESS CORRECTION REQUESTED", or any other similar statement that is in accordance with United States postal service regulations; except that with prior approval from the secretary of state, the packets shall be sent no later than ten (10) days before election day.</p> <p>(c) No sooner than twenty-five (25) days prior to election day, nor later than 7 p.m. on election day, mail ballots shall be made available at the designated election official's office, or the office designated in the mail ballot plan filed with the secretary of state, for eligible electors who are not listed or are listed as not active on the county voter registration records or, for special district mail ballot elections, on the list of property owners or the registration list but who are authorized to vote pursuant to section 32-1-806, C.R.S., or other applicable law. C.R.S. § 1-7.5-107</p>
<p><b>APRIL 12, 2006</b> No later than 20 days</p> <p><i>B-6</i></p>	<p><b>Registration records for nonpartisan elections.</b> The county clerk and recorder shall certify and make available no later than the twentieth (20) day preceding the election a supplemental list of the eligible electors who have become eligible since the earlier list was certified. These lists shall substitute for the original registration record. C.R.S. § 1-5-303</p> <p><b>Lists of property owners.</b> The supplemental list for the political subdivision shall be provided no later than twenty (20) days before the election and shall contain the names and addresses of all recorded owners who have become owners no later than thirty (30) days prior to the election and after the initial list of property owners was provided. C.R.S. § 1-5-304</p> <p>The designated election official may order a complete list of the registered electors and a complete list of the property owners as of the twentieth (20) day prior to the election. C.R.S. § 1-5-304</p> <p><b>Mail Ballot Elections - procedures for conducting mail ballot election.</b> (2.5) (a) No later than twenty (20) days before an election, the designated election official, or the coordinated election official if so provided by an intergovernmental agreement, shall provide notice by publication of a mail ballot election conducted pursuant to the provisions of this article, which notice shall state, as applicable for the particular election for which the notice is provided, the items set forth in section 1-5-205 (1) (a) to (1) (d).</p> <p><b>Additional notice – election to create financial obligation.</b> (1) (a) A district submitting a ballot issue concerning the creation of any debt or other financial obligation at an election in the district shall post notice on the district's website or, if the district does not maintain a website, at the district's chief administrative office no later than twenty days before the election. <b>(See C.R.S. § 1-7-908 (I) thru (V) for specific notice requirements.)</b> C.R.S. § 1-7-908</p>

<p><b>APRIL 17, 2006</b> No later than 15 days</p> <p><i>B-15</i> <i>B-16</i></p> <p><i>B-41</i></p>	<p><b>Postcard notice and notice by publication.</b> (2) (a) No later than fifteen (15) days before a nonpartisan election and in addition to the publication required by section 1-5-205, the designated election official or coordinated election official <b>may</b> mail to each household where one or more active eligible electors reside a voter information card. The information on the voter information card may be included with the ballot issue notice. C.R.S. § 1-5-206</p> <p><b>Mail Ballot Election - procedures for conducting mail ballot election.</b> (3) (a) Not sooner than twenty-five (25) days before an election, and no later than fifteen (15) days before an election, the designated election official shall mail to each active registered elector, at the last mailing address appearing in the registration records and in accordance with United States postal service regulations, a mail ballot packet, which shall be marked "DO NOT FORWARD. ADDRESS CORRECTION REQUESTED", or any other similar statement that is in accordance with United States postal service regulations; except that with prior approval from the secretary of state, the packets shall be sent no later than ten (10) days before election day. C.R.S. § 1-7.5-107</p> <p><b>Canvassers for nonpartisan elections.</b> (1.5) Unless otherwise directed by the board of directors of a special district, at least fifteen (15) days before any regular special district election, the designated election official shall appoint at least one(1) member of the board of such district and at least one (1) eligible elector of the special district who is not a member of such board to assist the designated election official in the survey of returns. The persons so appointed and the designated election official constitute the board of canvassers for the election. C.R.S. § 1-10-201</p>
<p><b>APRIL 20, 2006</b> No later than 12 days</p>	<p><b>Change of polling place - accessibility for persons with disabilities.</b> (6) Any request for a change of polling place to a polling place which is accessible to persons with disabilities must be received by the designated election official no later than twelve (12) days before the election for which the change is requested. C.R.S. § 1-2-225</p> <p><b>Polling place - designation by sign.</b> All polling places shall be designated by a sign conspicuously posted at least twelve (12) days before each election. C.R.S. § 1-5-106</p>
<p><b>APRIL 21, 2006</b> No later than 10 days</p> <p><i>B-4</i> <i>B-5</i></p>	<p><b>Published and posted notice of election.</b> (1) The designated election official, or the coordinated election official if so provided by an intergovernmental agreement, no later than ten (10) days before each election, shall provide notice by publication of the election, which notice shall state, as applicable for the particular election for which notice is provided, the following: (please note form B-4)</p> <p>(1.3) A copy of the notice required by this section shall be posted in a conspicuous place in the office of the designated election official. Sample ballots may be used as notices so long as the information required by this section is included with the sample ballot.</p> <p>(2) At the time that notice by publication is made, the designated election official shall also mail a copy of the notice of the election to the county clerk and recorders of the counties in which the political subdivision is located. C.R.S. § 1-5-205</p>

<p><b>APRIL 22, 2006</b> May begin 10 days prior</p> <p>May begin 10 days prior</p> <p>During the 10 days prior</p>	<p><b>Mail Ballot Election –procedures for conducting mail ballot elections.</b> The election officials at the mail ballot counting place may receive and prepare mail ballots delivered and turned over to them by the designated election official for tabulation. Counting of the mail ballots may begin ten (10) days prior to the election and continue until counting is completed. The election official in charge of the mail ballot counting place shall take all precautions necessary to ensure the secrecy of the counting procedures, and no information concerning the count shall be released by the election officials or watchers until after 7 p.m. on election day.</p> <p style="text-align: right;">C.R.S. § 1-7.5-107.5</p> <p><b>Hours absentee counting place open for receiving and counting absentee ballots.</b> The election officials at the absentee counting place may receive, cast, and prepare for tabulation absentee ballots delivered and turned over to them by the designated election official. Counting of the absentee ballots may begin ten (10) days prior to the election and continue until counting is completed. The election officials in charge of the absentee ballot counting place shall take all precautions necessary to ensure the secrecy of the counting procedures, and no information concerning the count shall be released by the election officials or watchers until after 7 p.m. on election day.</p> <p style="text-align: right;">C.R.S. § 1-8-302</p> <p><b>Delivery of absentee ballots to supply judge.</b> At any time during the ten (10) days prior to and including the election day, the designated election official shall deliver to the judges of the absentee ballot counting place all the absentee envelopes received up to that time in packages or in ballot boxes that are locked and secured with a numbered seal together with the signed applications for the absentee ballots, the count and the list of absentee electors, and the record of absentee ballots as provided for in section 1-8-108 for which a receipt will be given. The designated election official shall continue to deliver any envelopes containing absentee ballots that may be received thereafter up to and including 7 p.m. on election day. On the sealed packages and boxes of absentee envelopes shall be printed or written "This package (or box) contains ..... (number) absentee envelopes." With the envelopes, the designated election official shall deliver to the supply judge written instructions, which shall be followed by the election judges in casting and counting the ballots, and all the lists, records, and supplies needed for tabulating, recording, and certifying the absentee ballots</p> <p style="text-align: right;">C.R.S. § 1-8-303</p>
<p><b>APRIL 21, 2006</b> 11<sup>th</sup> day before the election</p>	<p><b>Application for absentee ballot.</b> (3) ...if the applicant (for an absentee ballot) wishes to receive the absentee ballot by mail, the application shall be filed with the designated election official no later than the eleventh day before the election.</p> <p style="text-align: right;">C.R.S. § 1-8-104</p>
<p><b>APRIL 28, 2006</b> Friday before</p> <p style="text-align: center;"><i>B-17</i></p>	<p><b>Application for absentee ballot.</b> (3) The application for absentee ballots shall be filed with the designated election official of the political subdivision in which the applicant resides or is entitled to vote. The application shall be filed no earlier than January 1 immediately preceding the election and no later than the close of business on the Friday immediately preceding the election, if the ballot is not to be mailed to the elector.</p> <p style="text-align: right;">C.R.S. § 1-8-104</p>
<p><b>MAY 1, 2006</b> At least 1 day prior</p>	<p><b>Registration record</b> (2) The designated election official, at least one (1) day prior to any election, shall cause the registration records and all necessary registration supplies to be delivered to the supply judge. The registration records shall be delivered in a sealed envelope or container to the supply judge, who shall have custody of and shall give a receipt for the registration records.</p> <p style="text-align: right;">C.R.S. § 1-5-301</p> <p><b>Printing and distribution of ballots.</b> The designated election official shall have a sufficient number of ballots printed and distributed to the election judges. The packages shall be delivered on any day on which a judges school of instruction is held or by 8 p.m. on the Monday before election day.</p> <p style="text-align: right;">C.R.S. § 1-5-410</p>



<p><b>MAY 12, 2006</b> No less than 10 days after</p> <p style="text-align: center;"><i>B-55</i></p>	<p><b>Certificates of election for nonpartisan, ballot issue, or ballot question elections. (2)</b> Except in the case of ballot issues or ballot questions for which a recount is required, immediately after the abstract of vote cast for each ballot issue or ballot question has been prepared, the designated election official shall notify the governing body of the political subdivision conducting the election and the petition representatives of a ballot issue or ballot question of the election result and shall make a certificate of the votes cast for and against each ballot issue and for and against each ballot question available for public inspection in the office of the designated election official for no less than ten (10) days following the completion of the abstract of votes cast by the canvass board.</p> <p style="text-align: right;">C.R.S. § 1-11-103</p>
<p><b>MAY 26 – JUNE 9, 2006</b> No later than the 25<sup>th</sup> day and completed no later than the 40<sup>th</sup> day</p>	<p><b>Recount nonpartisan elections not coordinated by the county clerk.</b> If it appears, as evidenced by the abstract of votes cast that a recount is required for any office, ballot question or ballot issue, the designated election official shall order a recount of the votes cast for the office, the ballot issue, or ballot question no later than the twenty-fifth (25) day after the election. Any recount under this section shall be completed no later than the fortieth (40) day after the election.</p> <p style="text-align: right;">C.R.S. § 1-10.5-104</p>
<p><b>JUNE 1, 2006</b> Within 30 days</p> <p style="text-align: center;"><i>B-55</i> <i>B-8</i> <i>B-9</i> <i>B-10</i> <i>B-11</i> <i>B-12</i></p> <p style="text-align: center;"><i>B-56</i></p>	<p><b>Certificates of election for nonpartisan, ballot issue, or ballot question elections. (3)</b> The results of a special district election shall be certified to the division of local government within thirty (30) days after the election as provided in section 32-1-104 (1), C.R.S. If an election is canceled, the notice and a copy of the resolution of cancellation shall be filed with the division of local government.</p> <p style="text-align: right;">C.R.S. § 1-11-103</p> <p><b>Establishment of a special districts file. (1)</b> Each special district shall register its business address, its telephone number, and the name of a contact person with the division when certifying the results of a district election pursuant to section 1-11-103, C.R.S.</p> <p style="text-align: right;">C.R.S. § 32-1-104</p> <p><b>Oath and bond of directors. (1)</b> Each director, within thirty (30) days after his election except for good cause shown, shall appear before an officer authorized to administer oaths and take an oath that he will faithfully perform his duties of his office as required by law. When an election is cancelled whole or in part, each director who was declared elected shall take the oath within thirty days after the date of the regular election, except for good cause shown. The oath may be administered by the county clerk and recorder, by the clerk of the court, by any person authorized to administer oaths in this state, or by the chairman of the board and shall be filed with the clerk of the court and the division.</p> <p>(2) At the time of filing said oath, there shall also be filed for each director an individual, schedule, or blanket surety bond.</p> <p>(3) If any director fails to take the oath or furnish the requisite bond within the period allowed, except for good cause shown, his office shall be deemed vacant.</p> <p style="text-align: right;">C.R.S. § 32-1-901</p>
<p><b>JUNE 16, 2006</b> 45 days after</p>	<p><b>Special District Debt Authorization. (1)</b> The results of special district ballot issue elections to incur general obligation indebtedness shall be certified by the special district by certified mail to the board of county commissioners of each county in which the special district is located or to the governing body of a municipality that has adopted a resolution of approval for organization of the special district within forty-five (45) days after the election. The special district shall file a copy of any certification with the Division of Securities (1580 Lincoln, Denver, CO., 80203).</p> <p style="text-align: right;">C.R.S. § 32-1-1101.5</p>

**C.R.S. § 1-1-106 COMPUTATION OF TIME**

- (1) *Calendar days shall be used in all computations to time made under the provisions of this code.*
- (2) *In computing any period of days prescribed by this code, the day of the act or event from which the designated period of days begins to run shall not be included.....*
- (4) *If the last day of any act to be done or the last day of any period is a Saturday, Sunday or legal holiday and completion of such act involves a filing or other action during business hours, the period is extended to include the next day which is not a Saturday, Sunday or legal holiday.*
- (5) *If a ....state statute requires doing an act in “not less than” or “no later than” or “at least” a certain number of days or “prior to” a certain number of days....”before” the date of an election, or any phrase that suggests a similar meaning, the period is shortened to and ends on the prior business day that is not a Saturday, Sunday, or legal holiday...*

# **TITLE 1**

## **ELECTION LAWS**

## **COLORADO REVISED STATUTES**

### **TITLE 1 ELECTIONS**

- Art. 1. Elections Generally, 1-1-101 to 1-1-303.
- Art. 1.5. Help America Vote Act, 1-1.5-101 to 1-1.5-106.
- Art. 2. Qualifications and Registration of Electors, 1-2-101 to 1-2-703.
- Art. 3. Political Party Organization, 1-3-100.3 to 1-3-108.
- Art. 4. Elections - Access to Ballot by Candidates, 1-4-101 to 1-4-1305.
- Art. 5. Notice and Preparation for Elections, 1-5-101 to 1-5-802.
- Art. 6. Election Judges, 1-6-101 to 1-6-121.
- Art. 7. Conduct of Elections, 1-7-101 to 1-7-908.
- Art. 7.5. Mail Ballot Elections, 1-7.5-101 to 1-7.5-112.
- Art. 8. Absentee and Early Voting, 1-8-101 to 1-8-311.
- Art. 8.5. Provisional Ballots, 1-8.5-101 to 1-8.5-112.
- Art. 9. Challenges, 1-9-101 to 1-9-306.
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- Art. 10.5. Recounts, 1-10.5-101 to 1-10.5-110.
- Art. 11. Certificates of Election and Election Contests, 1-11-101 to 1-11-311.
- Art. 12. Recall and Vacancies in Office, 1-12-101 to 1-12-210.
- Art. 13. Election Offenses, 1-13-101 to 1-13-803. (Part 9 Reserved).

### **ARTICLE 1 Elections Generally**

#### **PART 1 DEFINITIONS AND GENERAL PROVISIONS**

- 1-1-101. Short title.
- 1-1-102. Applicability.
- 1-1-103. Election code liberally construed.
- 1-1-104. Definitions - repeal.
- 1-1-105. Elections conducted pursuant to provisions which refer to qualified electors.
- 1-1-106. Computation of time.
- 1-1-107. Powers and duties of secretary of state - penalty.
- 1-1-108. Copies of election laws and manual provided.
- 1-1-109. Forms prescribed.
- 1-1-110. Powers of the county clerk and recorder and deputy.
- 1-1-111. Powers and duties of governing boards.
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#### **PART 2 TERMS OF OFFICE**

- 1-1-201. Commencement of terms - state, congressional district, and county officers.
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#### **PART 1 DEFINITIONS AND GENERAL PROVISIONS**

**1-1-104. Definitions** - repeal. As used in this code, unless the context otherwise requires:

(1) "Abstract of votes cast" means a certified record of the results in each election for candidates for any office, ballot issue, or ballot question that the county clerk and recorder certified for the ballot.

(1.1) "Address of record" means the elector's place of residence as specified in accordance with section 1-2-204 (2) (f).

(1.2) "Affiliation" means an elector's decision to affiliate with either a political party or a political organization, as defined in subsections (24) and (25) of this section.

(1.3) "Assembly" means a meeting of delegates of a political party, organized in accordance with the rules and regulations of the political party, held for the purpose of designating candidates for nominations.

(1.5) "Authorizing legislation" means the provisions of the state constitution or statutes or of a



local charter authorizing the existence and powers of a political subdivision and providing for the call and conduct of the political subdivision's election.

(1.7) "Ballot" means the list of all candidates, ballot issues, and ballot questions upon which an eligible elector is entitled to vote at an election.

(2) "Ballot box" means the locked and sealed container in which ballots are deposited by eligible electors. The term includes the container in which ballots are transferred from a polling place to the office of the designated election official and the transfer case in which electronic ballot cards and paper tapes and the "prom" or any other electronic tabulation device are sealed by election judges for transfer to the central counting center.

(2.1) "Ballot card" means the card, tape, or other vehicle on which an elector's votes are recorded in an electronic or electromechanical voting system.

(2.3) "Ballot issue" means a state or local government matter arising under section 20 of article X of the state constitution, as defined in sections 1-41-102 (4) and 1-41-103 (4), respectively.

(2.5) "Ballot issue notice" means the notice which is required by section 20 (3) (b) of article X of the state constitution and comprises the material between the notice title and the conclusion of the summary of comments.

(2.7) "Ballot question" means a state or local government matter involving a citizen petition or referred measure, other than a ballot issue.

(3) (Deleted by amendment, L. 94, p. 1750, § 1, effective January 1, 1995.)

(4) (Deleted by amendment, L. 93, p. 1394, § 2, effective July 1, 1993.)

(5) "Congressional vacancy election" means an election held at a time other than the general election for the purpose of filling a vacancy in an unexpired term of a representative in congress.

(6) "Convention" means a meeting of delegates of a political party, organized in accordance with the rules and regulations of the political party, held for the purpose of selecting delegates to other political conventions, including national conventions, making nominations for presidential electors, or nominating candidates to fill vacancies in unexpired terms of representatives in congress or held for other political functions not otherwise covered in this code.

(6.5) "Coordinated election" means an election where more than one political subdivision with overlapping boundaries or the same electors holds an election on the same day and the eligible electors are all registered electors, and the county clerk and recorder is the coordinated election official for the political subdivisions.

(7) "County" includes a city and county.

(7.5) "Deliverable mailing address" means the elector's mailing address if different from the elector's address of record as specified in accordance with section 1-2-204 (2) (f).

(8) "Designated election official" means the member of a governing board, secretary of the board, county clerk and recorder, or other person designated by the governing body as the person who is responsible for the running of an election.

(9) "District captain" or "district co-captain" means any registered elector who is a resident of the district, is affiliated with a political party, and is designated or elected pursuant to political party rules of the county.

(9.5) "District office of state concern" means those elective offices, involving congressional districts or unique political subdivisions with territory in more than one county and with their own enabling legislation, as identified by rules of the secretary of state based upon the method for designating candidates for office and responsibility for identification and qualification of candidates.

(9.6) "Driver's license" means any license, temporary instruction permit, or temporary license issued under the laws of this state pertaining to the licensing of persons to operate motor vehicles and any identification card issued under part 4 of article 2 of title 42, C.R.S.

(10) "Election official" means any county clerk and recorder, election judge, member of a canvassing board, member of a board of county commissioners, member or secretary of a board of directors authorized to conduct public elections, representative of a governing body, or other person contracting for or engaged in the performance of election duties as required by this code.

(11) "Election records" includes but is not limited to accounting forms, certificates of registration, pollbooks, certificates of election, signature cards, all affidavits, absentee voter applications, absentee voter lists and records, absentee voter return envelopes, voted ballots, unused ballots, spoiled ballots, and replacement ballots.

(12) "Elector" means a person who is legally qualified to vote in this state. The related terms "eligible elector", "registered elector", and "taxpaying elector" are separately defined in this section.

(13) "Elector registration information changes" means changes in the name, address, or political affiliation of a registered elector which are allowed by the provisions of this code.

(13.5) "Electromechanical voting system" means a system in which an elector votes using a device for marking a ballot card using ink or another visible substance and the votes are counted with electronic vote-tabulating equipment. The term

includes a system in which votes are recorded electronically within the equipment on paper tape and are recorded simultaneously on an electronic device that permits tabulation at a counting center.

(14) "Electronic vote-tabulating equipment" or "electronic vote-counting equipment" means any apparatus that examines and records votes automatically and tabulates the result, including but not limited to optical scanning equipment. The term includes any apparatus that counts votes electronically and tabulates the results simultaneously on a paper tape within the apparatus, that uses an electronic device to store the tabulation results, and that has the capability to transmit the votes into a central processing unit for purposes of a printout and an official count.

(14.5) "Electronic voting device" means a device by which votes are recorded electronically, including a touchscreen system.

(15) (a) "Electronic voting equipment" or "punch card electronic voting system" means a method in which votes are recorded on ballots or ballot cards by means of marking or punching and such votes are subsequently counted and tabulated by electronic vote-tabulating equipment at one or more counting centers. "Electronic voting equipment" includes a system in which votes are recorded electronically within the equipment on paper tape and are recorded simultaneously on a removable "prom" or other electronic device which permits tabulation at a counting center.

(b) This subsection (15) is repealed, effective January 1, 2006.

(15.5) "Electronic voting system" means a system in which an elector votes using an electronic voting device.

(16) "Eligible elector" means a person who meets the specific requirements for voting at a specific election or for a specific candidate, ballot question, or ballot issue. If no specific provisions are given, an eligible elector shall be a registered elector, as defined in subsection (35) of this section.

(17) "General election" means the election held on the Tuesday succeeding the first Monday of November in each even-numbered year.

(18) "Governing body" means a board of county commissioners, a city council, a board of trustees, a board of directors, or any other entity which is responsible for the calling and conducting of an election.

(19) "Gubernatorial" means and refers to voting in general elections for the office of governor.

(19.5) (a) "Identification" means:

(I) A valid Colorado driver's license;

(II) A valid identification card issued by the department of revenue in accordance with the requirements of part 3 of article 2 of title 42, C.R.S.;

(III) A valid United States passport;

(IV) A valid employee identification card with a photograph of the eligible elector issued by any branch, department, agency, or entity of the United States government or of this state, or by any county, municipality, board, authority, or other political subdivision of this state;

(V) A valid pilot's license issued by the federal aviation administration or other authorized agency of the United States;

(VI) A valid United States military identification card with a photograph of the eligible elector;

(VII) A copy of a current utility bill, bank statement, government check, paycheck, or other government document that shows the name and address of the elector;

(VIII) A valid medicare or medicaid card issued by the United States health care financing administration;

(IX) A certified copy of a birth certificate for the elector issued in the United States; or

(X) Certified documentation of naturalization.

(b) Any form of identification indicated in paragraph (a) of this subsection (19.5) that shows the address of the eligible elector shall be considered identification only if the address is in the state of Colorado.

(20) "Joint candidates" means the two candidates for the office of governor and the office of lieutenant governor for whom one vote cast at any general election is applicable to both offices.

(21) (Deleted by amendment, L. 93, p. 1394, § 2, effective July 1, 1993.)

(22) "Major political party" means any political party that at the last preceding gubernatorial election was represented on the official ballot either by political party candidates or by individual nominees and whose candidate at the last preceding gubernatorial election received at least ten percent of the total gubernatorial votes cast.

(22.5) "Major political party affiliation" means an elector's decision to affiliate with a major political party, as defined in subsection (22) of this section.

(22.7) "Manual count" means a count conducted by hand or by scanning a bar code.

(23) "Minor political party" means a political party other than a major political party that satisfies one of the conditions set forth in section 1-4-1303 (1) or has submitted a sufficient petition in accordance with section 1-4-1302.

(23.3) "Nonpartisan election" means an election that is not a partisan election.

(23.4) "Overvote" means the selection by an elector of more names than there are persons to be elected to an office or the designation of more than one answer to a ballot question or ballot issue.

(23.6) "Partisan election" means an election in which the names of the candidates are printed on the ballot along with their affiliation. The existence of a partisan election for the state or for a political subdivision as a part of a coordinated election does not cause an otherwise nonpartisan election of another political subdivision to become a partisan election.

(24) "Political organization" means any group of registered electors who, by petition for nomination of an unaffiliated candidate as provided in section 1-4-802, places upon the official general election ballot nominees for public office.

(25) "Political party" means either a major political party or a minor political party.

(26) "Political party district" means an area within a county composed of contiguous whole election precincts, as designated by the political party county chairperson.

(27) "Pollbook" means the list of eligible electors who are permitted to vote at a polling place or by mail ballot in an election conducted under this code.

(28) "Polling place" means the place established for holding elections.

(29) "Population" means population as determined by the latest federal census.

(30) "Precinct" means an area with established boundaries within a political subdivision used to establish election districts.

(31) "Precinct caucus" means a meeting of registered electors of a precinct who are eligible to participate in accordance with the provisions of section 1-3-101, such meeting being organized in accordance with the rules and regulations of the political party.

(32) "Primary election" means the election held on the second Tuesday of August in each even-numbered year.

(33) "Property owners list" means the list furnished by the county assessor in accordance with section 1-5-304 showing each property owner within the subdivision, as shown on a deed or contract of record.

(33.5) "Public assistance" includes, but is not necessarily limited to, assistance provided under the following programs:

(a) The food stamp program, as provided in part 3 of article 2 of title 26, C.R.S.;

(b) Programs established pursuant to the "Colorado Medical Assistance Act", article 4 of title 26, C.R.S.;

(c) The special supplemental food program for women, infants, and children, as provided for in 42 U.S.C. sec. 1786;

(d) Assistance under the Colorado works program, as described in part 7 of article 2 of title 26,

C.R.S.

(34) "Publication" means printing one time, in one newspaper of general circulation in the political subdivision if there is such a newspaper, and, if not, then in a newspaper in the county in which the political subdivision is located. For a political subdivision with territory within more than one county, if publication cannot be made in one newspaper of general circulation in the political subdivision, then one publication is required in a newspaper in each county in which the political subdivision is located and in which the political subdivision also has fifty or more eligible electors.

(34.2) "Purchase" means to enter into a contract for the purchase, lease, rental, or other acquisition of voting equipment.

(34.5) "Referred measure" includes any ballot question or ballot issue submitted by the general assembly or the governing body of any political subdivision to the eligible electors of the state or political subdivision pursuant to article 40 or 41 of this title.

(35) "Registered elector" means an elector, as defined in subsection (12) of this section, who has complied with the registration provisions of this code and who resides within or is eligible to vote in the jurisdiction of the political subdivision calling the election. If any provision of this code requires the signing of any document by a registered elector, the person making the signature shall be deemed to be a registered elector if the person's name and address at the time of signing the document matches the name and address for the person on the registration document at the county clerk and recorder's office, and as it appears on the master elector list on file with the secretary of state.

(36) "Registration book" means the original elector registration records for each county retained and stored by one of the following methods:

(a) On registration records by precinct in bound books arranged alphabetically for all active and all inactive registrations with all withdrawn and canceled registrations kept in separate bound books or on film; or

(b) On film and computer with access to the registration records available both alphabetically and by precinct. The system shall have the capability to print out active and inactive registration records, to retain the voting history for each active and inactive registration by surname, and to film completed voter signature forms by precinct for each election. Computer lists of registration records shall be furnished for use at the precinct polling places on election days.

(37) "Registration list" means the computer list of electors currently registered to vote as furnished and certified by the county clerk and

recorder.

(38) "Registration record" means the approved and completed form on which an elector has registered to vote, which includes the original signature of the registrant. "Registration record" includes a standard-size approved elector registration record to which a nonstandard completed form has been transferred by copy or manual entry.

(39) "Regular biennial school election" means the election held on the first Tuesday in November of each odd-numbered year.

(40) "Regular drainage ditch election" means the election held on the first Tuesday after the first Monday in January of each alternate year.

(41) "Regular regional transportation district election" means the election held concurrently with the state general election in every even-numbered year during which the directors are elected.

(42) "Regular special district election" means the election on the Tuesday succeeding the first Monday of May in every even-numbered year, held for the purpose of electing members to the board of special districts and for submission of ballot issues, if any.

(43) "Residence" means the principal or primary home or place of abode of a person, as set forth in section 1-2-102.

(44) (Deleted by amendment, L. 96, p. 1732, § 2, effective July 1, 1996.)

(45) "School district" means a school district organized and existing pursuant to law but does not include a junior college district.

(45.5) "Self-affirmation" means a sworn statement made in writing and signed by an individual, as though under oath. Any person falsely making a self-affirmation violates section 1-13-104.

(46) "Special election" means any election called by a governing board for submission of ballot issues and other matters, as authorized by their enabling legislation. Any governing body may petition a district court judge who has jurisdiction over the political subdivision for permission to hold a special election on a day other than those specified in this subsection (46). The district court judge may grant permission only upon a finding that an election on the days specified would be impossible or impracticable or upon a finding that an unforeseeable emergency would require an election on a day other than those specified.

(46.3) "Special legislative election" means an election called by the general assembly pursuant to part 3 of article 11 of this title.

(46.5) "Statewide abstract of votes cast" means the record of the results in each election for candidates, ballot issues, and ballot questions that the secretary of state certified for the ballot.

(47) "Supply judge" means the election

judge appointed by the designated election official to be in charge of the election process at the polling place on election day.

(48) "Taxable property" means real or personal property subject to general ad valorem taxes. For all elections and petitions that require ownership of real property or land, ownership of a mobile home or manufactured home, as defined in section 5-1-301 (29), 38-12-201.5 (2), or 42-1-102 (106) (b), C.R.S., is sufficient to qualify as ownership of real property or land for the purpose of voting rights and petitions.

(49) "Taxpaying elector" shall have the same meaning as provided in section 32-1-103 (23), C.R.S.

(49.5) "Unaffiliated" means that a person is registered but not affiliated with a political party in accordance with the provisions of section 1-2-204 (2) (j).

(49.7) "Undervote" means the failure of an elector to vote on a ballot question or ballot issue, the failure of an elector to vote for any candidate for an office, or the designation by an elector of fewer votes than there are offices to be filled; except that it is not an undervote if there are fewer candidates than offices to be filled and the elector designates as many votes as there are candidates.

(49.8) "Vote center" means a polling place at which any registered elector in the political subdivision holding the election may vote, regardless of the precinct in which the elector resides.

(50) "Vote recorder" or "voting device" means any apparatus which the elector uses to record votes by marking or punching a hole in a paper ballot or tabulating card and which subsequently counts the votes by electronic tabulating equipment or records the votes electronically on a paper tape within the apparatus and simultaneously on a removable "prom" or other electronic tabulation device.

Editor's note: This version of subsection (50) is effective until January 1, 2006.

(50) "Vote recorder" or "voting device" means any apparatus that the elector uses to record votes by marking a ballot card and that subsequently counts the votes by electronic tabulating equipment or records the votes electronically on a paper tape within the apparatus and simultaneously on an electronic tabulation device.

Editor's note: This version of subsection (50) is effective January 1, 2006.

(50.2) "Voter registration agency" means an office designated in section 1-2-504 to perform voter registration activities.

(50.4) "Voter registration drive" means the distribution and collection of voter registration applications by two or more persons for delivery to a county clerk and recorder.

(50.5) "Voter registration drive organizer" means a person, as defined in section 2-4-401 (8), C.R.S., that organizes a voter registration drive in the state.

(50.6) (a) "Voter-verified paper record" means an auditable paper record that:

(I) Is available for the elector to inspect and verify before the vote is cast;

(II) Is produced contemporaneously with or employed by any voting system;

(III) Lists the designation of each office, ballot issue, or ballot question, and the elector's choices in such offices, issues, or questions. If the elector makes no selection in connection with any race, issue, or question, that fact shall also be noted on the record produced.

(IV) Is suitable for a manual audit or recount; and

(V) Is capable of being maintained as an election record in accordance with the requirements of section 1-7-802.

(b) Any paper ballot that lists the title, along with any number, as applicable, of each candidate race, ballot issue, or ballot question, on which the elector has marked his or her choices in such races, issues, or questions shall constitute a voter-verified paper record for purposes of this subsection (50.6).

(50.7) "Voting equipment" means electronic or electromechanical voting systems, electronic voting devices, and electronic vote-tabulating equipment, as well as materials, parts, or other equipment necessary for the operation and maintenance of such systems, devices, and equipment.

(50.8) "Voting system" means a process of casting, recording, and tabulating votes using electromechanical or electronic devices or ballot cards and includes, but is not limited to, the procedures for casting and processing votes and the operating manuals, hardware, firmware, printouts, and software necessary to operate the voting system.

(50.9) "Voting system provider" means an individual engaged in private enterprise or a business entity engaged in selling, leasing, marketing, designing, building, or modifying voting systems to the state, a political subdivision of the state, or another entity authorized to hold an election under this code.

(51) "Watcher" means an eligible elector other than a candidate on the ballot who has been selected by a political party chairperson on behalf of the political party, by a party candidate at a primary election, by an unaffiliated candidate at a general, congressional vacancy, or nonpartisan election, or by a person designated by either the opponents or the proponents in the case of a ballot issue or ballot question. If selected by a political party chairperson,

a party candidate, or an unaffiliated candidate, the watcher shall be affiliated with that political party or unaffiliated as shown on the registration books of the county clerk and recorder.

**1-1-105. Elections conducted pursuant to provisions which refer to qualified electors.** Any election, and any acts relating thereto, including but not limited to elections under this code, the "Colorado Municipal Election Code of 1965", article 10 of title 31, C.R.S., school elections under title 22, C.R.S., and special district elections under title 32, C.R.S., which were conducted prior to July 1, 1987, pursuant to provisions which refer to a qualified elector rather than a registered elector and which were valid when conducted, shall be deemed and held to be legal and valid in all respects.

**1-1-106. Computation of time.** (1) Calendar days shall be used in all computations of time made under the provisions of this code.

(2) In computing any period of days prescribed by this code, the day of the act or event from which the designated period of days begins to run shall not be included and the last day shall be included. Saturdays, Sundays, and legal holidays shall be included, except as provided in subsection (4) of this section.

(3) If a number of months is to be computed by counting the months from a particular day, the period shall end on the same numerical day in the concluding month as the day of the month from which the computation is begun; except that, if there are not that many days in the concluding month, the counting period shall end on the last day of the concluding month.

(4) If the last day for any act to be done or the last day of any period is a Saturday, Sunday, or legal holiday and completion of such act involves a filing or other action during business hours, the period is extended to include the next day which is not a Saturday, Sunday, or legal holiday.

(5) If the state constitution or a state statute requires doing an act in "not less than" or "no later than" or "at least" a certain number of days or "prior to" a certain number of days or a certain number of months "before" the date of an election, or any phrase that suggests a similar meaning, the period is shortened to and ends on the prior business day that is not a Saturday, Sunday, or legal holiday, except as provided in section 1-2-201 (3).

**1-1-107. Powers and duties of secretary of state - penalty.** (1) In addition to any other duties prescribed by law, the secretary of state has the following duties:

(a) To supervise the conduct of primary,

general, congressional vacancy, and statewide ballot issue elections in this state;

(b) To enforce the provisions of this code;

(c) With the assistance and advice of the attorney general, to make uniform interpretations of this code;

(d) To coordinate the responsibilities of the state of Colorado under the federal "National Voter Registration Act of 1993", 42 U.S.C. sec. 1973gg;

(e) To serve as the chief state election official within the meaning of the federal "Help America Vote Act of 2002", P.L. No. 107-252, and, in that capacity, to coordinate the responsibilities of the state of Colorado under the federal act in accordance with the requirements of this code.

(2) In addition to any other powers prescribed by law, the secretary of state shall have the following powers:

(a) To promulgate, publish, and distribute, either in conjunction with copies of the election laws pursuant to section 1-1-108 or separately, such rules as the secretary of state finds necessary for the proper administration and enforcement of the election laws, including but not limited to rules establishing the amount of fees as provided in this code;

(b) To inspect, with or without the filing of a complaint by any person, and review the practices and procedures of county clerk and recorders, election commissions, their employees, and other election officials in the conduct of primary, general, and congressional vacancy elections and the registration of electors in this state;

(c) To employ, subject to section 13 of article XII of the state constitution, the personnel deemed necessary to efficiently carry out the powers and duties prescribed in this code;

(d) To enforce the provisions of this code by injunctive action brought by the attorney general in the district court for the judicial district in which any violation occurs.

(3) Repealed.

(4) Any other provision of law to the contrary notwithstanding, the office of the secretary of state, or the section or division administering the election laws of this state pursuant to this section, shall be open and available to the election officials and employees of the various political subdivisions conducting elections on each election day during the same hours that the polls are open for voting if the political subdivision has notified the office of the secretary of state that an election has been called and that the services of the office are desired.

(5) The provisions of this section are enacted, pursuant to section 11 of article VII of the state constitution, to secure the purity of elections and to guard against the abuses of the elective franchise.

(6) Repealed.

(7) No person while serving in the office of secretary of state shall serve as the highest ranking official, whether actual or honorary, in the campaign of any candidate for federal or statewide office. This subsection (7) shall not apply to a campaign in which the secretary of state is the candidate.

**1-1-108. Copies of election laws and manual provided.** (1) No later than sixty days after each adjournment of the general assembly, the secretary of state shall transmit to the county clerk and recorder of each county a complete, updated copy of the pertinent sections of the election laws of the state.

(2) No later than January 15 in even-numbered years, the division of local government in the department of local affairs shall transmit to the designated election official of each special district organized under article 1 of title 32, C.R.S., entitled to hold elections or, if there is no designated election official, to the chief executive officer of the special district, at least one copy of the election laws. The designated election officials or chief executive officers of those special districts may request additional copies of the election laws.

**1-1-109. Forms prescribed.** (1) Except as otherwise provided by this code, the secretary of state shall approve all forms required by this code, which forms shall be followed by county clerk and recorders, election judges, and other election officials.

(2) A registered elector shall make elector registration information changes on an approved form, and the elector registration information changes shall be entered on the elector's registration record and retained and stored in a registration book, as provided for in section 1-1-104 (36).

**1-1-110. Powers of the county clerk and recorder and deputy.** (1) The county clerk and recorder, in rendering decisions and interpretations under this code, shall consult with the secretary of state and follow the rules and orders promulgated by the secretary of state pursuant to this code.

(2) All powers and authority granted to the county clerk and recorder by this code may be exercised by a deputy clerk in the absence of the county clerk and recorder or if the county clerk and recorder for any reason is unable to perform the required duties.

(3) As the chief election official for the county, the county clerk and recorder shall be the chief designated election official for all coordinated elections.

(4) (a) For any elector registered after

August 4, 1999, any communication by mail from the county clerk and recorder to any registered elector pursuant to this title, including, but not limited to, a voter information card provided pursuant to section 1-5-206 or an elector information card provided pursuant to section 1-2-605, shall be sent to the elector's address of record unless the elector has requested that said communication be sent to his or her deliverable mailing address pursuant to section 1-2-204 (2) (k).

(b) For any elector registered as of August 4, 1999, who has provided the county clerk and recorder both an address of record and a deliverable mailing address but has not indicated a mailing preference, any communication by mail from the county clerk and recorder to any registered elector pursuant to this title, including, but not limited to, a voter information card provided pursuant to section 1-5-206 or an elector information card provided pursuant to section 1-2-605, shall be sent to the elector's deliverable mailing address.

**1-1-111. Powers and duties of governing boards.** (1) In addition to any other duties prescribed by law, the governing board of a political subdivision entitled to call elections shall have the following duties:

(a) To supervise the conduct of regular and special elections which it is authorized or required to call; and

(b) Where appropriate, to consult and coordinate with the county clerk and recorder of the county in which the political subdivision is located and with the secretary of state in regard to conducting elections and rendering decisions and interpretations under this code.

(2) All powers and authority granted to the governing board of a political subdivision may be exercised by an election official designated by the board. The governing body may also contract with the county clerk and recorder of the county in which the political subdivision is organized to perform all or part of the required duties in conducting the election.

(3) Elections which are set for the same date by various political subdivisions may be held as coordinated elections if the governing bodies so choose. Political subdivisions are authorized to cooperate and contract with each other to perform any function relating to an election.

**1-1-112. Powers and duties of election commission.** The election commission in counties having a commission shall have all the powers and jurisdiction and perform all the duties provided by this code in respect to county clerk and recorders and boards of county commissioners.

### **1-1-113. Neglect of duty and wrongful acts.**

(1) When any controversy arises between any official charged with any duty or function under this code and any candidate, or any officers or representatives of a political party, or any persons who have made nominations or when any eligible elector files a verified petition in a district court of competent jurisdiction alleging that a person charged with a duty under this code has committed or is about to commit a breach or neglect of duty or other wrongful act, after notice to the official which includes an opportunity to be heard, upon a finding of good cause, the district court shall issue an order requiring substantial compliance with the provisions of this code. The order shall require the person charged to forthwith perform the duty or to desist from the wrongful act or to forthwith show cause why the order should not be obeyed. The burden of proof is on the petitioner.

(2) The petitioner shall be required to deposit in court the statutory witness fees pursuant to section 13-33-102, C.R.S., for each person cited or summoned into court as a party or a witness, to be paid to the party or witness if the charge is not sustained. The money so deposited shall be returned to the party depositing it if any of the charges are sustained.

(3) The proceedings may be reviewed and finally adjudicated by the supreme court of this state. If either party makes application to the supreme court within three days after the district court proceedings are terminated, unless the supreme court, in its discretion, declines jurisdiction of the case.

(4) Except as otherwise provided in this part 1, the procedure specified in this section shall be the exclusive method for the adjudication of controversies arising from a breach or neglect of duty or other wrongful act that occurs prior to the day of an election.

(5) Notwithstanding any other provision of law, the procedures specified in section 1-1.5-105 shall constitute the exclusive administrative remedy for a complaint arising under title III of the federal "Help America Vote Act of 2002", P.L. No. 107-252.

### **1-1-114. Registration deadline. (Repealed)**

## **PART 2 TERMS OF OFFICE**

**1-1-202. Commencement of terms - nonpartisan officers.** The regular terms of office of all nonpartisan officers elected at regular elections shall commence at the next meeting of the governing body following the date of the election, but no later than thirty days following the survey of returns and upon the signing

of an oath and posting of a bond, where required, unless otherwise provided by law. If the election is cancelled in whole or in part pursuant to section 1-5-208 (1.5), then the regular term of office of a nonpartisan officer shall commence at the next meeting of the governing body following the date of the regular election, but no later than thirty days following the date of the regular election and upon the signing of an oath and posting of a bond, where required, unless otherwise provided by law.

**1-1-203. End of the term.** A person elected or appointed to an office shall hold office until the successor is elected, qualified, and takes office on the second Tuesday of January, unless otherwise provided by law.

## **ARTICLE 1.5**

### **Help America Vote Act**

- 1-1.5-101. Legislative declaration.
- 1-1.5-102. Definitions.
- 1-1.5-103. Conflict with federal law.
- 1-1.5-104. Powers and duties of secretary of state.

**1-1.5-101. Legislative declaration.** (1) The general assembly hereby finds, determines, and declares that:

(a) The "Help America Vote Act of 2002", P.L. No. 107-252, was passed by the United States congress and signed into law by president George W. Bush on October 29, 2002.

(b) HAVA resulted from a national consensus that the nation's electoral system needs improvements to ensure that every eligible voter has the opportunity to vote, that every vote that should be counted will be counted, and that no legal vote will be canceled by a fraudulent vote.

(c) HAVA clearly defines the rights and privileges of those eligible individuals who seek to vote, including all overseas and military service voters, and seeks to prevent disenfranchisement resulting from mistaken determinations of ineligibility to vote, the use of outdated voting systems that are unreliable or insufficiently accessible for disabled voters, or unnecessary administrative obstacles.

(d) To achieve these purposes, HAVA

1-1.5-105. Complaint procedure.

1-1.5-106. Federal elections assistance fund match requirements - maintenance of effort - grants and loans to counties.

authorizes significant amounts of federal financial assistance to the states to finance the purchase of more reliable voting systems and mandates changes in the conduct of federal elections in all states for the purposes of ensuring greater access to the polls by individuals with disabilities, providing more information to individuals who wish to vote, improving the training of poll workers, and reducing the possibility of fraud in the electoral process.

(e) As a condition of the receipt of certain funds from the federal government under HAVA, section 253 (b) (5) of HAVA requires the states to appropriate funds for carrying out the activities for which such payments are made in an amount equal to five percent of the total amount to be spent for such activities.

(f) HAVA empowers the United States department of justice to bring civil actions seeking such declaratory and injunctive relief as may be necessary to carry out uniform and nondiscriminatory election technology and administration requirements. Accordingly, failure to satisfy the requirements of HAVA may subject election laws and procedures of this state to stringent review and approval by the United States department of justice.

(g) In order that its requirements may



be

effectively and uniformly implemented, HAVA mandates a greater role for the state governments and, in particular, the chief election official of each state, in overseeing and coordinating elections and in enforcing and implementing uniform standards in elections.

(h) In Colorado, the secretary of state is the chief state election official and, in that capacity, is charged by HAVA and existing state statutory provisions with responsibility for supervising the conduct of elections and for enforcing and implementing the provisions of HAVA and of this code.

(2) Now, therefore, by enacting this article, the general assembly intends to:

(a) Begin the process of implementing the changes in this code that are required by HAVA;

(b) Ensure the timely fulfillment by the state of all requirements for eligibility under HAVA to be able to receive appropriated federal funds under HAVA; and

(c) Provide the secretary of state with sufficient authority to ensure that the state of Colorado is fully compliant with all requirements imposed upon it pursuant to HAVA.

(3) The general assembly further intends that this article be liberally construed to effectuate its purposes as expressed in this section.

**1-1.5-102. Definitions.** As used in this article, unless the context otherwise requires:

(1) "Department" means the Colorado department of state.

(2) "Fund" means the federal elections assistance fund created in section 1-1.5-106.

(3) "HAVA" means the federal "Help America Vote Act of 2002", P.L. No. 107-252, codified at 42 U.S.C. sec. 15301 et seq.

(4) "Secretary" means the Colorado secretary of state.

**1-1.5-103. Conflict with federal law.** If the secretary or a court of competent jurisdiction determines there is a conflict between this article or any other provision of this code and any provision of HAVA, the provisions of HAVA and any rules promulgated thereunder shall control,

and the secretary shall perform the duties and discharge the obligations contained in the federal act. If such a determination is made, the secretary shall submit a report to the general assembly explaining the conflict and suggesting language to change this article in the next legislative session.

**1-1.5-104. Powers and duties of secretary of state.** (1) The secretary may exercise such powers and perform such duties as reasonably necessary to ensure that the state is compliant with all requirements imposed upon it pursuant to HAVA to be eligible on a timely basis for all federal funds made available to the state under HAVA, including, without limitation, the power and duty to:

(a) Develop and require education and training programs and related services for state, county, and local election officials involved in the conduct of elections;

(b) Promulgate, oversee, and implement changes in the statewide voter registration system as specified in part 3 of article 2 of this title;

(c) Establish a uniform administrative complaint procedure in accordance with the requirements of section 1-1.5-105;

(d) Issue appropriate orders to county or local election officials in connection with the proper administration, implementation, and enforcement of the federal act, which orders shall be enforceable in a court of competent jurisdiction;

(e) Promulgate rules in accordance with the requirements of article 4 of title 24, C.R.S., as the secretary finds necessary for the proper administration, implementation, and enforcement of HAVA and of this article; and

(f) Exercise any other powers or perform any other duties that are consistent with this article and that are reasonably necessary for the proper administration, implementation, and enforcement of HAVA and that will improve the conduct of elections in the state in conformity with HAVA.

(2) (a) Acting either upon his or her own initiative or upon a complaint submitted to him or her giving the secretary reasonable grounds to believe that an election in this state is not being conducted in accordance with the requirements of HAVA or of this code, the secretary may investigate the allegation of noncompliance. In connection with such an investigation, the secretary may:

(i) Compel the testimony of witnesses

and the production of documents from any state, county, or local official involved in the conduct of the election; and

(II) Send one or more official election observers to any county in the state to examine the conduct of any aspect of any election giving rise to the allegation of noncompliance. The clerk and recorder of the county in which the allegation of noncompliance arises shall assume the costs associated with the travel and other expenses of any observers sent to the county pursuant to this subparagraph (II) where the secretary has reasonable grounds to believe that the election is not being conducted in accordance with the requirements of HAVA or of this code.

(b) In order to satisfy the requirements of this subsection (2), the secretary may require that each county designate not less than three persons experienced in the conduct of elections to form a pool of official election observers.

(3) With the exception of a complaint brought under section 1-1.5-105 to remedy an alleged violation of HAVA, any interested party that has reasonable grounds to believe that an election is not being conducted in conformity with the requirements of this code may apply to the district court in the judicial district in which the allegation of noncompliance arises for an order giving the secretary access to all pertinent election records used in conducting the election and requesting the secretary to conduct the election.

(4) The secretary shall seek the full amount of funds available to the state under HAVA for distribution to the counties in accordance with HAVA.

**1-1.5-105. Complaint procedure.** (1) Subject to the requirements of this section, in accordance with section 402 of HAVA, the secretary may establish by rule a uniform administrative complaint procedure to remedy grievances brought under title III of HAVA.

(2) Any rules promulgated pursuant to subsection (1) of this section shall provide for, but need not be limited to, the following:

(a) A uniform and nondiscriminatory complaint procedure;

(b) Authorization for any person who has either been personally aggrieved by or has personally witnessed a violation of title III of HAVA that has occurred, is occurring, or that is about to occur, as applicable, to file a complaint;

(c) A description by the complainant in

his or her complaint of the alleged violation with particularity and a reference to the section of HAVA alleged to have been violated;

(d) A requirement that the complaint be filed no later than one year from the date of either the occurrence of the alleged violation or of the election giving rise to the complaint, whichever is later;

(e) A requirement that each complaint be in writing and notarized, signed, and sworn by the person filing the complaint;

(f) Authorization for the secretary to consolidate two or more complaints;

(g) At the request of the complainant, a hearing on the record;

(h) Authorization for the secretary to provide an appropriate remedy if the secretary determines that any provision of title III of HAVA has been violated or to dismiss the complaint and publish the results of his or her review if the secretary determines that no provision of title III of HAVA has been violated;

(i) A final determination on the complaint by the secretary prior to the expiration of the ninety-day period that begins on the date the complaint is filed, unless the complainant consents to an extension of time for making such determination;

(j) Resolution of the complaint within sixty days under an alternative dispute resolution procedure that the secretary shall establish in accordance with the requirements of this section if the secretary fails to satisfy the applicable deadline specified in paragraph (i) of this subsection (2), and the availability of the record and any other materials from any proceedings conducted under the complaint procedures established for use under such alternative dispute resolution procedures;

(k) Authorization for the secretary to conduct a preliminary review of any complaint submitted to him or her and to dismiss any complaint that he or she finds is not supported by credible evidence; and

(l) Recovery by the secretary of the costs of the proceeding against any complainant who files a complaint that, in connection with the final determination by the secretary pursuant to paragraph (i) of this subsection (2), is found, on the basis of clear and convincing evidence, to be frivolous, groundless, or vexatious.

(3) Notwithstanding any other provision of law:

(a) No complaint shall be brought pursuant to the procedure created by this

section unless the complaint alleges a violation of title III of HAVA;

(b) Proceedings for the resolution of a complaint brought pursuant to this section shall not be considered an adjudication under article 4 of title 24, C.R.S.; and

(c) The procedures created by this section shall constitute the exclusive administrative remedy for a violation of title III of HAVA.

(4) Any person aggrieved by a final determination by the secretary acting pursuant to paragraph (i) of subsection (2) of this section may appeal the secretary's determination to the district court in and for the city and county of Denver within thirty days of the date of the determination.

**1-1.5-106. Federal elections assistance fund - match requirements - maintenance of effort - grants and loans to counties.**

(1) (a) There is hereby created in the state treasury the federal elections assistance fund, which fund shall be administered by the secretary and shall consist of:

(I) All moneys received by the state from the federal government pursuant to HAVA;

(II) All moneys appropriated or otherwise made available to the fund by the general assembly for the purpose of carrying out the activities required by HAVA;

(III) All moneys received by the state as payment from the counties pursuant to subsection (3) of this section;

(IV) Moneys collected by the secretary for the implementation of this article from federal grants and other contributions, grants, bequests, and donations received from individuals, private organizations, or foundations; and

(V) Interest earned on deposits made to the fund.

(b) All moneys specified in paragraph (a) of this subsection (1) shall be transmitted to the state treasurer to be credited to the fund.

(2) (a) Any moneys received by the state from the federal government pursuant to HAVA shall be used by the state only for the purposes specified by the provisions of HAVA under which the moneys were provided.

(b) All moneys in the fund are continuously appropriated to the department for the proper administration, implementation, and enforcement of HAVA in accordance with the requirements of this article. All moneys in the fund at the end of each fiscal year shall be

retained in the fund and shall not revert to the general fund or any other fund.

(3) Subject to available appropriations, the secretary may direct that moneys in the department of state cash fund created in section 24-21-104 (3) (b), C.R.S., as of July 1, 2003, be used to satisfy in whole or in part the requirement of section 253 (b) (5) of HAVA that the state appropriate funds for carrying out the activities for which federal payments are being made in an amount equal to five percent of the total amount to be spent for such activities. In order to assist the state in satisfying this requirement of HAVA, the secretary may assess the counties for a share of the financial requirement assessed against the state under HAVA as specified in this subsection (3) and may establish by rule a plan to fairly and reasonably allocate the financial obligation among the counties pursuant to this subsection (3).

(4) For the 2002-03 fiscal year, and for each fiscal year thereafter in which the state receives payments from the federal government in accordance with title I of HAVA, and subject to available appropriations, the general assembly shall make an annual appropriation to the department out of moneys in the department of state cash fund for election-related purposes that is not less than the level of expenditures for such purposes maintained by the state for the 2001-02 fiscal year.

(5) For the 2002-03 fiscal year, and for each fiscal year thereafter in which the state receives payments from the federal government in accordance with title I of HAVA, and subject to available appropriations, the secretary shall maintain out of moneys in the department of state cash fund a level of expenditures in support of the statewide voter registration system created in section 1-2-301 that is not less than the level of expenditures for such purposes maintained by the secretary for the 2001-02 fiscal year.

(6) For the county fiscal year that ends prior to November 1, 2003, and for each county fiscal year thereafter in which the state receives payments from the federal government in accordance with title I of HAVA, each county shall maintain not less than the same amount of expenditures on activities arising under title III of HAVA that it expended on such activities for its fiscal year ending prior to November 2002, excluding moneys expended during that period for capital expenditures on new voting

equipment or any other one-time capital expenditure as determined by the secretary.

(7) The secretary may establish a program pursuant to which the secretary may award grants or loans to the counties for the purpose of assisting the counties in meeting any of the requirements imposed upon them pursuant to HAVA or by this article. In connection with the establishment of any such program created pursuant to this subsection (7), the secretary shall specify, without limitation, qualification requirements for eligibility to receive a grant or loan, administration of the grant or loan program, criteria for awarding a grant or loan, any limit on the total amount of moneys to be awarded in a grant or loan pursuant to the requirements of this subsection (7), any limit on the amount to be awarded to any one grant or loan recipient, auditing or reporting requirements for grant or loan recipients, penalty provisions where grant or loan moneys are expended improperly, and, in the case of loans, repayment terms. Notwithstanding any other provision of law, each loan awarded pursuant to this subsection (7) shall bear interest at a specified rate.

(8) In response to the failure by a county to satisfy any of the requirements imposed upon it pursuant to this section, the secretary may deduct from the reimbursement to which the county would ordinarily be entitled pursuant to section 1-5-505.5 the amount of moneys owed by the county pursuant to this section.

(9) Any county may donate to the state equipment for voter registration purposes in accordance with part 3 of article 2 of this title, which equipment is determined to be usable by the secretary. In exchange for such donation, the county shall receive a credit in the amount of the fair market value of the item donated against the financial obligation assessed against the county pursuant to subsection (3) of this section.

## **ARTICLE 2**

### **Qualifications and Registration of Electors**

#### **PART 1**

#### **QUALIFICATIONS OF ELECTORS**

- 1-2-101. Qualifications for registration.
- 1-2-102. Rules for determining residence.

## **PART 2 REGISTRATION OF ELECTORS**

- 1-2-201. Registration required - deadline.
- 1-2-202. Registration by county clerk and recorder.

## **PART 1 QUALIFICATIONS OF ELECTORS**

**1-2-101. Qualifications for registration.** (1) Every person who is eighteen years of age or older on the date of the next election and who has the following qualifications is entitled to register to vote at all elections:

(a) The person is a citizen of the United States; and

(b) The person has resided in this state and the precinct in which the person intends to register thirty days immediately prior to the election at which the person intends to vote; but, in case of an annexation that changes county boundaries, any person otherwise qualified to register to vote under the provisions of this section who has resided within the territory annexed for the time prescribed shall be deemed to have met the residence requirements for the precinct to which the territory was annexed.

**1-2-102. Rules for determining residence.** (1) The following rules shall be used to determine the residence of a person intending to register or to vote in any precinct in this state and shall be used by election judges in challenge procedures:

(a) (I) The residence of a person is the principal or primary home or place of abode of a person. A principal or primary home or place of abode is that home or place in which a person's habitation is fixed and to which that person, whenever absent, has the present intention of returning after a departure or absence, regardless of the duration of the absence. A residence is a permanent building or part of a building and may include a house, condominium, apartment, room in a house, or mobile home. No vacant lot or business address shall be considered a residence.

(II) The mailing address of a homeless individual shall constitute that individual's residence for purposes of registering or voting in any precinct in this state. A homeless individual who has no mailing address shall not be eligible to register or to vote. The mailing address of a homeless individual may include a shelter, a

homeless service provider, or a private residence, but it may not include a post office box or general delivery at a post office.

(b) In determining what is the principal or primary place of abode of a person, the following circumstances relating to the person shall be taken into account: Business pursuits, employment, income sources, residence for income or other tax purposes, age, marital status, residence of parents, spouse, and children, if any, leaseholds, situs of personal and real property, existence of any other residences and the amount of time spent at each residence, and motor vehicle registration.

(c) The residence given for voting purposes shall be the same as the residence given for motor vehicle registration and for state income tax purposes.

(d) A person shall not be considered to have gained a residence in this state, or in any county or municipality in this state, while retaining a home or domicile elsewhere.

(e) If a person moves to any other state with the intention of making it a permanent residence, that person shall be considered to have lost Colorado residence after thirty days' absence from this state unless the person has evidenced an intent to retain a residence in this state by a self-affirmation executed pursuant to section 1-8-114.

(f) If a person moves from one county or precinct in this state to another with the intention of making the new county or precinct a permanent residence, after thirty days the person shall be considered to have lost residence in the county or precinct from which the person moved.

## **PART 2 REGISTRATION OF ELECTORS**

**1-2-201. Registration required - deadline.** (1) No person shall be permitted to cast a regular ballot at any election without first having been registered within the time and in the manner required by the provisions of this article. No charge shall be made for registration.

(2) Each elector registering shall sign his or her name on the registration record or, if unable to write, shall make a personal mark or be provided assistance to make such a mark by the county clerk and recorder or any other person authorized by the county clerk and recorder or the elector. The elector shall answer the questions required by section 1-2-204 and

shall complete the self-affirmation required by section 1-2-205.

(3) Any other provisions of this title to the contrary notwithstanding, electors shall be permitted to vote if the elector is registered to vote no later than twenty-nine days before any primary, presidential, general, special legislative election, municipal, congressional vacancy, special district, or other election, and, if the twenty-ninth day before an election is a Saturday, Sunday, or legal holiday, then electors shall be permitted to register on the next day that is not a Saturday, Sunday, or legal holiday.

**1-2-202. Registration by county clerk and recorder.** (1) The county clerk and recorder shall register any eligible elector residing in any precinct in the state of Colorado who appears in person at any office regularly maintained by the county clerk and recorder and staffed by regular employees at any time. If the elector resides in a county other than where he or she is registering, the registration shall be forwarded to the county clerk and recorder of the county in which the elector resides.

(2) Each municipal clerk shall serve as a deputy registrar. The municipal clerk shall register any eligible elector who appears in person at the municipal clerk's primary office at any time during which registration is permitted in the office of the county clerk and recorder. The municipal clerk shall deliver the new registration records to the office of the county clerk and recorder either in person or by mail no later than the tenth day of each month for the month immediately prior and in person on the day following the last day for registration preceding any election for which registration is required.

(3) (Deleted by amendment, L. 94, p. 1753, § 8, effective January 1, 1995.)

(4) If the county clerk and recorder finds that a precinct is composed of three percent or more non-English-speaking eligible electors, the county clerk and recorder shall take affirmative action to recruit full-time or part-time staff members who are fluent in the language used by the eligible electors and in English. The action shall be conducted through voluntarily donated public service notices in the media, including newspapers, radio, and television, particularly those media which serve those non-English-speaking persons.

(5) The county clerk and recorder shall attest to the signature of all electors who register in the county clerk and recorder's office

by placing the official signature of the county clerk and recorder on the registration sheet.

(6) (Deleted by amendment, L. 97, p. 471, § 3, effective July 1, 1997.)

(7) Registration records for any election shall include all those electors who have registered at least twenty-nine days before the election.

#### **ARTICLE 4**

#### **Elections - Access to Ballot by Candidates**

##### **PART 5 QUALIFICATIONS AND METHODS OF NOMINATION**

- 1-4-501. Only eligible electors eligible for office.
- 1-4-502. Methods of nomination for partisan candidates.
- 1-4-503. Method of nomination for nonpartisan candidates.
- 1-4-504. Documents are public records.

##### **PART 9 PETITIONS FOR CANDIDACY AND RECALL**

- 1-4-901. Designation of petition.
- 1-4-902. Form of petition.
- 1-4-903. Approval of petition.
- 1-4-904. Signatures on the petitions.
- 1-4-905. Circulators.
- 1-4-906. Candidate's acceptance.
- 1-4-907. Filing of petition.
- 1-4-908. Verification of petition and official statement.
- 1-4-909. Protest of designations and nominations.
- 1-4-910. Protest to a recall petition.
- (Repealed)
- 1-4-911. Review of a protest.
- 1-4-912. Cure.
- 1-4-913. Defacing of petitions. (Repealed)

##### **PART 10 WITHDRAWALS FROM AND VACANCIES IN NOMINATIONS AND DESIGNATIONS**

- 1-4-1001. Withdrawal from candidacy.
- 1-4-1002. Vacancies in designation or nomination.

##### **PART 11**

#### **WRITE-IN CANDIDATES**

- 1-4-1101. Write-in candidate affidavit of intent.
- 1-4-1102. Time of filing affidavit.
- 1-4-1103. Write-in votes for governor.

##### **PART 5 QUALIFICATIONS AND METHODS OF NOMINATION**

**1-4-501. Only eligible electors eligible for office.** (1) No person except an eligible elector who is at least eighteen years of age, unless another age is required by law, is eligible to hold any office in this state. No person is eligible to be a designee or candidate for office unless that person fully meets the qualifications of that office as stated in the constitution and statutes of this state on or before the date the term of that office begins. The designated election official shall not certify the name of any designee or candidate who fails to swear or affirm under oath that he or she will fully meet the qualifications of the office if elected and who is unable to provide proof that he or she meets any requirements of the office relating to registration, residence, or property ownership. The information found on the person's voter registration record is admissible as prima facie evidence of compliance with this section.

(2) No person is eligible to be a candidate for more than one office at one time; except that this subsection (2) does not apply to memberships on different special district boards. This subsection (2) shall not prohibit a candidate or elected official of any political subdivision from being a candidate or member of the board of directors of any special district or districts in which he or she is an eligible elector, unless otherwise prohibited by law.

(3) The qualification of any candidate may be challenged by an eligible elector of the political subdivision within five days after the designated election official's statement is issued that certifies the candidate to the ballot. The challenge shall be made by verified petition setting forth the facts alleged concerning the qualification of the candidate and shall be filed in the district court in the county in which the political subdivision is located. The hearing on the qualification of the candidate shall be held in not less than five nor more than ten days after the date the election official's statement is issued that certifies the candidate to the ballot.

The court shall hear the testimony and other evidence and, within forty-eight hours after the close of the hearing, determine whether the candidate meets the qualifications for the office for which the candidate has declared. Provisions of section 13-17-101, C.R.S., regarding frivolous, groundless, or vexatious actions shall apply to this section.

**1-4-503. Method of nomination for nonpartisan candidates.** Except as provided for the nomination of special district directors in section 32-1-804.3, C.R.S., nominations for all elected nonpartisan local government officials shall be by petition for nomination as provided in part 8 of this article.

**1-4-504. Documents are public records.** All certificates of designation, petitions, certificates of nomination, acceptances, declinations, and withdrawals are public records as soon as they are filed and are open to public inspection under proper regulation. When a copy of any document is presented at the time the original is filed or at any time thereafter and a request is made to have a copy compared and certified, the officer with whom the document is filed shall forthwith compare the copy with the original on file and, if necessary, correct the copy and certify and deliver the copy to the person who presented it upon the payment in advance of the copy and certification charge. All filed documents shall be preserved pursuant to section 1-7-802, unless otherwise ordered or restrained by some court.

#### **PART 9 PETITIONS FOR CANDIDACY AND RECALL**

**1-4-901. Designation of petition.** (1) The petition for a candidate may consist of one or more sheets, to be fastened together in the form of one petition section, but each sheet shall contain the same heading and each petition section shall contain one sworn affidavit of the circulator. No petition shall contain the name of more than one person for the same office.

(2) Repealed.

**1-4-902. Form of petition.** (1) The signatures to a petition need not all be appended to one paper, but no petition shall be legal that does not contain the requisite number of names of eligible electors whose names do not appear on any

other petition previously filed for the same office or recall under the provisions of this section.

(2) At the top of each page shall be printed, in bold-faced type, the following:

#### **WARNING: IT IS AGAINST THE LAW:**

**For anyone to sign this petition with any name other than one's own or to knowingly sign one's name more than once for the same candidate or to knowingly sign the petition when not a registered elector.**

**Do not sign this petition unless you are an eligible elector. To be an eligible elector you must be registered to vote and eligible to vote in (name of political subdivision) elections.**

**Do not sign this petition unless you have read or have had read to you the proposed nomination petition in its entirety and understand its meaning.**

(3) Directly following the warning in subsection (2) of this section shall be printed in bold-faced type the following:

**Petition to nominate (name of person sought to be elected to) the office of (title of office).**

**1-4-903. Approval of petition.** No petition shall be circulated until it has been approved as meeting the requirements of this section as to form. The secretary of state or the official with whom the petitions are to be filed shall approve or disapprove a petition as to form by the close of the second business day following submission of the proposed petition. The secretary of state or official, as applicable, shall mail written notice of the action taken to the person who submitted the petition on the day the action is taken.

**1-4-904. Signatures on the petitions.** (1) Every petition shall be signed

only by eligible electors.

(3) Unless physically unable, all electors shall sign their own signature and shall print their names, their respective residence addresses, including the street number and name, the city or town, the county, and the date of signature. Each signature on a petition shall be made, to the extent possible, in black ink.

(4) Any person, except a circulator, may assist an elector who is physically unable to sign the petition in completing the information on the petition as required by law. On the petition, immediately following the name of the disabled elector, the person providing assistance shall both sign and shall state that the assistance was given to the disabled elector.

**1-4-905. Circulators.** (1) No eligible elector shall be eligible to circulate any petition unless the elector is eligible to vote in the voting district for the office for which the petition is being circulated and, for partisan candidates, is affiliated with the political party mentioned in the petition at the time the petition is circulated, as shown by the registration books of the county clerk and recorder.

(2) To each petition section shall be attached a signed, notarized, and dated affidavit executed by the eligible elector who circulated the petition section, which shall include: The affiant's printed name, the address at which the affiant resides, including the street name and number, the city or town, the county, and the date of signature; a statement that the affiant was an eligible elector at the time the section of the petition was circulated and signed by the listed electors; a statement that the affiant circulated the section of the petition; a statement that each signature on the petition section is the signature of the person whose name it purports to be; a statement that to the best of the affiant's knowledge and belief each of the persons signing the petition section was, at the time of signing, an eligible elector; and a statement that the affiant has not paid or will not in the future pay and that the affiant believes that no other person has paid or will pay, directly or indirectly, any money or other thing of value to any signer for the purpose of inducing or causing the signer to sign the petition.

(3) The designated election official shall not accept for filing any section of a petition which does not have attached to it the notarized affidavit required by this section. Any signature added to a section of a petition after the affidavit

has been executed is invalid.

**1-4-906. Candidate's acceptance.** Every nominating petition before it is filed shall have attached to it a notarized acceptance of the nomination of the candidate or notarized acceptances by both of the joint candidates. Each acceptance of nomination shall contain the full name of the candidate or joint candidate as the name will appear on the ballot and the candidate's full address.

**1-4-907. Filing of petition.** The petition, when executed and acknowledged as prescribed in this part 9, shall be filed as follows: With the secretary of state if it is for an office that is voted on by the electors of the entire state or of a congressional district or for the offices of members of the general assembly or district attorney or a district office of state concern; with the county clerk and recorder if it is for a county office; and with the designated election official if it is for a nonpartisan local election.

**1-4-908. Verification of petition and official statement.** (1) Upon filing, the designated election official for the political subdivision shall review all petition information and verify the information against the registration records, and, where applicable, the county assessor's records. The secretary of state shall establish guidelines for verifying petition entries.

(2) (Deleted by amendment, L. 95, p. 832, § 36, effective July 1, 1995.)

(3) After review, the official shall notify the candidate of the number of valid signatures and whether the petition appears to be sufficient or insufficient. In the case of a petition for nominating an unaffiliated candidate, the official shall provide notification of sufficiency or insufficiency to the candidate on or before the primary election date. Upon determining that the petition is sufficient and after the time for protest has passed, the designated election official shall certify the candidate to the ballot, and, if the election is a coordinated election, so notify the coordinated election official.

**1-4-909. Protest of designations and nominations.** (1) A petition or certificate of designation or nomination that has been verified and appears to be sufficient under this code shall be deemed valid unless a protest is made in writing within five days after the election official's statement of sufficiency is issued or, in



the case of a certificate of designation, within five days after the certificate of designation is filed with the designated election official. The protest shall state in a summary manner the alleged impropriety. Notice of the protest shall be mailed forthwith to all candidates or officials who may be affected by it. The designated election official with whom the original certificate or petition is filed shall hear any protest within ten days after the protest is filed and shall pass upon the validity of the protest, whether of form or substance, and shall issue findings of fact and conclusions within seventy-two hours after the hearing.

**1-4-910. Protest to a recall petition. (Repealed)**

**1-4-911. Review of a protest.** The party filing a protest has the burden of sustaining the protest by a preponderance of the evidence. The decision upon matters of substance is open to review, if prompt application is made, as provided in section 1-1-113. The remedy in all cases shall be summary, and the decision of any court having jurisdiction shall be final and not subject to review by any other court; except that the supreme court, in the exercise of its discretion, may review any judicial proceeding in a summary way.

**1-4-912. Cure.** (1) In case a petition for nominating an unaffiliated candidate is not sufficient, it may be amended once no later than 3 p.m. on the ninety-fifth day before the general election, 3 p.m. on the fifty-fifth day preceding a congressional vacancy election, or 3 p.m. on the sixty-seventh day before an election that is not being held concurrently with the general election. If a petition for nominating an unaffiliated candidate is amended, the designated election official shall notify the candidate of whether the petition is sufficient or insufficient no later than the ninetieth day before the general election.

**PART 10  
WITHDRAWALS FROM AND VACANCIES  
IN NOMINATIONS AND DESIGNATIONS**

**1-4-1001. Withdrawal from candidacy.** (1) Any person who has accepted a designation or nomination may withdraw from candidacy at any time by filing a letter of withdrawal. The letter shall be signed and

acknowledged by the candidate before some officer authorized to take acknowledgments and shall be filed with the designated election official with whom the original certificate or petition of candidacy was filed. Except in the case of a vacancy to be filled in accordance with the provisions of section 1-4-1002 (2.5), in the event that the withdrawal of candidacy is not made in time for the candidate's name to be taken off the ballot, any votes cast for the candidate shall be deemed invalid and will not be counted.

**PART 11  
WRITE IN CANDIDATES**

**1-4-1101. Write-in candidate affidavit of intent.** (1) Any person who wishes to be a write-in candidate for any office in any election shall file an affidavit of intent stating that he or she desires the office and is qualified to assume its duties if elected. The affidavit of intent shall be filed with the secretary of state if it is for a statewide office, a seat in congress, a seat in the general assembly, the office of district attorney, or any other district office of state concern. The affidavit shall be filed with the county clerk and recorder if it is for a county office and with the designated election official if it is for a local office.

(2) No write-in vote for any office in any election shall be counted unless the person for whom the vote was cast has filed an affidavit of intent as required in subsection (1) of this section.

**1-4-1102. Time of filing affidavit** (2) In a nonpartisan election, the affidavit of intent shall be filed by the close of business on the sixty-fourth day before the election. If the election is to be coordinated by the county clerk and recorder, the designated election official shall forward a copy of the affidavit of intent to the coordinated election official.

**ARTICLE 5  
Notice and Preparation for Elections**

**PART 1  
POLLING PLACES**

- 1-5-102. Establishing precincts and polling places for nonpartisan elections.
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- 1-5-102.7. Combining precincts and polling places - vote centers.
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## **PART 1 POLLING PLACES**

**1-5-102. Establishing precincts and polling places for nonpartisan elections.** (1) For nonpartisan elections other than coordinated elections, no later than twenty-five days prior to the election, the designated election official, with the approval of the governing body with authority to call elections, shall divide the jurisdiction into as many election precincts as it deems expedient for the convenience of eligible electors of the jurisdiction and shall designate the polling place for each precinct. The election precincts shall consist of one or more whole general election precincts wherever practicable, and the designated election official and governing body shall cooperate with the county clerk and recorder and the board of county commissioners

- 1-5-704. Standards for accessible voting systems.  
1-5-705. Accessible voter interface devices - minimum requirement.

## **PART 8 VOTER-VERIFIED PAPER RECORD**

- 1-5-801. Acquisition of voting systems - voter-verified paper record.  
1-5-802. Use of voting systems - voter-verified paper record.

of their political subdivisions to accomplish this purpose. Wherever possible, the polling places shall be the same as those designated by the county for partisan elections.

(2) The county clerk and recorder, no later than one hundred twenty days prior to a regular special district election or regular election of any other political subdivision, shall prepare a map of the county showing the location of the polling places and precinct boundaries utilized in the last November election. Copies of the map shall be available for inspection at the office of the county clerk and recorder and for distribution to the designated election official of each political subdivision.

(3) The county clerk and recorder shall maintain a list of owners or contact persons who, to the clerk's knowledge, may grant permission to political subdivisions to use the locations identified on the map for polling places. The clerk shall, upon request of the designated election official of a political subdivision, provide a copy of the list, or a part of the list as requested by the designated election official.

**1-5-102.5. Establishing polling places for coordinated elections.** (1) No later than ninety days prior to a coordinated election, the county clerk and recorder, in consultation with the other designated election officials of each political subdivision participating in the election, shall assure that one polling place be designated to allow an individual elector to vote for all ballot issues, ballot questions, and candidates voted on the same date.

(2) Repealed.

**1-5-102.7. Combining precincts and polling places - vote centers.** (1) Notwithstanding any provision of section 1-5-101, 1-5-102, or 1-5-102.5, a designated election official may combine polling places or precincts or establish one or more vote centers for any election, subject to approval by the board of county commissioners. A designated election official who combines polling places or precincts or establishes a vote center shall publish the location of polling places pursuant to section 1-5-

205.

(2) If vote centers are used in an election in a political subdivision, precinct polling places shall not also be used in the election in that political subdivision, unless each precinct polling place has a secure electronic connection to provide voting information to and receive voting information from the computerized registration book maintained by the county clerk and recorder.

(3) If vote centers are used in a general election in a county with a population of twenty-five thousand or more active registered electors, there shall be at least one vote center for every ten thousand active registered electors; except that the secretary of state may waive this requirement for a county before the election at the request of the county clerk and recorder.

(4) Each vote center used in a county shall have a secure electronic connection to the computerized registration book maintained by the county clerk and recorder permitting all voting information processed by any computer at a vote center to be immediately accessible to all other computers at all vote centers in the county. A county may not use vote centers in an election unless the secretary of state has certified that the secure electronic connection is sufficient to prevent any elector from voting more than once and to prevent unauthorized access to the computerized registration book.

(5) The number, location, and manner of operation and location of vote centers, including providing for poll watching activities, shall be determined by the designated election official in consultation with the chairpersons of the county central committees of the major political parties and a representative of the county organization of any minor political party.

(6) Each vote center shall meet all the requirements of federal and state law applicable to polling places, except as such requirements of state law are modified by this section.

(7) The designated election official of a political subdivision shall not establish vote centers for a general election unless vote centers were used in a previous election held by the political subdivision in an odd-numbered year or in a primary election held on or after January 1, 2006.

(8)(a) In elections held before January 1, 2006, the election judges shall make one certificate for each vote center in the form required by section 1-7-601.

(b) In elections held on and after January 1, 2006, the use of vote centers in an election shall not affect the duty of the election judges to make a certificate for each precinct in accordance with section 1-7-601.

#### **1-5-103. Changes in boundaries - partisan elections.**

(1) (a) Changes in the boundaries of precincts or the creation of new precincts for partisan elections shall be completed no later than twenty-nine days prior to the precinct caucus day, except in cases of precinct changes resulting from changes in county boundaries.

(b) Repealed.

(2) Subject to approval by the board of county commissioners, the county clerk and recorder shall change any polling place upon a petition of a majority of the eligible electors residing within a precinct if the request is made at least ninety days prior to the primary election.

(3) All changes in precinct boundaries or numbering for partisan elections, including changes required pursuant to section 1-5-101.5, shall be reported within ten days by the county clerk and recorder to the secretary of state, and a corrected precinct map shall be transmitted to the secretary of state as soon as possible after the changes have been effected.

#### **1-5-104. Changes in boundaries - nonpartisan elections.**

(1) Changes in the boundaries of precincts or the creation of new precincts for nonpartisan elections shall be completed no later than twenty-five days prior to scheduled elections, except in cases of precinct changes resulting from changes in the jurisdiction's boundaries.

(2) All changes in precinct boundaries or numbering for nonpartisan elections shall be reported to the county clerk and recorder within ten days by the designated election official, and a corrected precinct map shall be transmitted to the county clerk and recorder as soon as possible after the changes have been effected.

(3) Each governing body shall change any polling place upon a petition of a majority of the eligible electors residing within a precinct if the request is made at least forty-five days prior to the next scheduled election and another polling place location is reasonably available.

(4) Except as provided by law, no polling place shall be changed after the twenty-fifth day prior to an election.

#### **1-5-105. Restrictions.**

(1) No election-related activity shall be conducted within one hundred feet of any building in which a polling place is located except that of the conduct of the election at the polling place.

(2) No polling place shall be located in a room in which any intoxicating malt, spirituous, or vinous liquors are being served.

(3) The polling places shall be in public locations wherever possible. A private location may be used only when no appropriate public location is

available.

(4) For purposes of subsection (1) of this section and sections 1-6-119 and 1-13-714, when a polling place is within multi-use buildings such as a shopping mall or county office building, the "building" shall be considered the room in which ballots are cast, any waiting room or hall where electors wait to vote, as well as a primary corridor where electors walk to an interior polling place, and the designated exterior door to the multi-use building in which the polling place is located.

**1-5-106. Polling place - designation by sign.** All polling places shall be designated by a sign conspicuously posted at least twelve days before each election. The sign shall be substantially in the following form: "Polling place for precinct no. ...." The lettering on the sign and the precinct number shall be black on a white background. The letters and numerals of the title shall be at least four inches in height. In addition, the sign shall state the hours the polling place will be open and, if the polling place is not accessible for disabled electors, the location of the polling place for disabled electors.

**1-5-107. Polling places for disabled electors - repeal.** (1) Each political subdivision shall establish not less than one polling place which is free of architectural barriers for disabled electors. Adequate parking shall be close to the polling place. The polling place so established may be the absentee polling place required in section 1-7-111 (2).

(2) This section is repealed, effective January 1, 2006.

**1-5-108. Election judges may change polling places.** (1) If it becomes impossible or impracticable to hold an election because of an emergency at the designated polling place, the election judges, after assembling at or as near as practicable to the original designated polling place, may move to the nearest convenient place for holding the election and at the newly designated place forthwith proceed with the election. The election judges shall notify the designated election official of the change as soon as possible.

(2) Upon moving to a new polling place, the election judges shall display a proclamation of the change at the original polling place to notify all electors of the new location for holding the election. The proclamation shall contain a statement explaining the specific nature of the emergency that required the change in the polling place and shall provide the street address of the new location.

## PART 2

## CALL AND NOTICE

**1-5-203. Certification of ballot.** (1) No later than sixty days before any primary election, and no later than fifty-seven days before any general or odd-year November election or congressional vacancy election, the secretary of state shall deliver by electronic transmission and registered mail to the county clerk and recorder of each county a certificate in writing of the ballot order and content for each county, as follows:

(a) For general elections, the certificate shall specify the national and state officers and the district officers of state concern for whom some or all of the eligible electors of the county are entitled to cast ballots at the general election. The certificate shall include the name and party or other designation of each candidate for whom some or all of the eligible electors of the county are entitled to cast ballots and for whom a petition or certificate of nomination has been filed with the secretary of state, the name and party of each candidate nominated at the primary election for a national or state office or a district office of state concern, and the order of the ballot and the ballot content for the election. With regard to the election of members to the general assembly, the notice shall also specify the district number and the names of the members whose terms of office will expire.

(3) (a) No later than sixty days before any election, the designated election official of each political subdivision that intends to conduct an election shall certify the order of the ballot and ballot content. Such certification shall be delivered to the county clerk and recorder of each county that has territory within the political subdivision if the election is coordinated with the clerk and recorder. The order of the ballot and ballot content shall include the name and office of each candidate for whom a petition has been filed with the designated election official and any ballot issues or ballot questions to be submitted to the eligible electors.

(c) The state or a political subdivision that issues a certificate pursuant to this subsection (3) shall be solely responsible for the accuracy of the information contained in the certificate. Any error that can be corrected pursuant to the provisions of section 1-5-412 shall be corrected at the expense of the political subdivision whose designated election official issued the defective certificate or, at the expense of the state, if the secretary of state issued the defective certificate.

**1-5-205. Published and posted notice of election.** (1) The designated election official, or the coordinated election official if so provided by an intergovernmental agreement, no later than ten days

before each election, shall provide notice by publication of the election as described by section 1-1-104 (34), which notice shall state, as applicable for the particular election for which notice is provided, the following:

- (a) The date of the election;
- (b) The hours during which the polls will be open on election day and for early voting;
- (c) The address of the walk-in location and hours during which the walk-in location for the delivery of mail ballots and receipt of replacement ballots will be open;
- (d) The address of the location for application and the return of absentee ballots and the hours during which the office will be open;
- (e) The complete ballot content.
- (f) to (i) (Deleted by amendment, L. 2002, p. 1627, § 5, effective June 7, 2002.)
- (1.2) (Deleted by amendment, L. 2002, p. 1627, § 5, effective June 7, 2002.)
- (1.3) A copy of the notice required by this section shall be posted at least ten days prior to the election and until two days after the election in a conspicuous place in the office of the designated election official or the clerk and recorder if the election is coordinated by the clerk and recorder. Sample ballots may be used as notices so long as the information required by this section is included with the sample ballot.

(1.4) Publication of the notice required by subsection (1) of this section by the clerk and recorder for a coordinated election shall satisfy the publication requirement for all political subdivisions participating in the coordinated election.

(1.5) (Deleted by amendment, L. 2002, p. 1627, § 5, effective June 7, 2002.)

(2) At the time that notice by publication is made, the designated election official shall also mail a copy of the notice of the election to the county clerk and recorders of the counties in which the political subdivision is located if the clerk and recorder is not the coordinated election official.

(3) When there is a vacancy for an unexpired term in any national or state office or a district office of state concern that is by law to be filled at any general or congressional vacancy election, the secretary of state, no later than fifty-five days prior to the election, shall give notice in writing by publishing a notice in at least one newspaper of general circulation in the state or in the congressional district in which the vacancy is to be filled. The notice shall specify the office in which the vacancy exists, the cause of the vacancy, the name of the officer in whose office it has occurred, and the time when the term of office will expire.

**1-5-206. Postcard notice.** (2) (a) No later than

fifteen days before a nonpartisan election and in addition to the publication required by section 1-5-205, the designated election official or coordinated election official may mail to each household where one or more active eligible electors reside a voter information card. The information on the voter information card may be included with the ballot issue notice.

**1-5-206.7. Failure to receive mailed notice.** Any election for which a notice was mailed shall not be invalidated on the grounds that an eligible elector did not receive the ballot issue notice, mailed information, or mailed notification of the election required by this code or the state constitution if the designated election official or coordinated election official acted in good faith in making the mailing. Good faith is presumed if the designated election official or coordinated election official mailed the ballot issue notice, information, or notification to the addresses appearing on a registration list for the political subdivision as provided by the county clerk and recorder, and, where applicable, the list of property owners provided by the county assessor.

**1-5-207. Court-ordered elections.** (1) When an election is ordered by the court for a special district, the court shall authorize the designated election official to give notice as provided in the order.

(2) For an organizational election, the notice by publication shall include the purposes of the election, the estimated operating and debt service mill levies and fiscal year spending for the first year following organization, and the boundaries of the special district. The notice by publication shall recite the election date, which shall be not less than ten days after publication of the election notice.

(3) For a dissolution election, the notice by publication shall include the plan for dissolution or a summary of the plan and the place where a member of the public may inspect or obtain a copy of the complete plan. The notice by publication shall recite the election date, which shall be not less than ten days after publication of the election notice.

**1-5-208. Election may be canceled - when.** (1) Except as provided in subsection (1.5) of this section, if the only matter before the electors is the election of persons to office and if, at the close of business on the thirtieth day before the election, there are not more candidates than offices to be filled at the election, including candidates filing affidavits of intent, the designated election official, if instructed by resolution of the governing body, shall cancel the election and declare the candidates elected.

(1.5) If the only matter before the electors in a nonpartisan election is the election of persons to

office and if, at the close of business on the sixty-third day before the election, there are not more candidates than offices to be filled at the election, including candidates filing affidavits of intent, the designated election official, if instructed by resolution of the governing body, shall cancel the election and declare the candidates elected.

(2) Except for initiative and recall elections, no later than twenty-five days before an election conducted as a coordinated election in November, and at any time prior to any other elections, a governing body may by resolution withdraw one or more ballot issues or ballot questions from the ballot. The ballot issues and ballot questions shall be deemed to have not been submitted and votes cast on the ballot issues and ballot questions shall either not be counted or shall be deemed invalid by action of the governing body.

(3) If the electors are to consider the election of persons to office and ballot issues or ballot questions, the election may be canceled by the governing body only in the event that all of the conditions of subsection (1) of this section exist and that all ballot issues or ballot questions have been withdrawn from the ballot pursuant to subsection (2) of this section.

(4) Except as provided in subsection (2) of this section, no election may be canceled in part.

(5) Unless otherwise provided by an intergovernmental agreement pursuant to section 1-7-116, upon receipt of an invoice, the governing body shall within thirty days promptly pay all costs accrued by the county clerk and recorder and any coordinating political subdivision attributable to the canceled election or withdrawn ballot issues or ballot questions.

(6) The governing body shall provide notice by publication of the cancellation of the election. A copy of the notice shall be posted at each polling place of the political subdivision, in the office of the designated election official, and in the office of the clerk and recorder for each county in which the political subdivision is located and, for special districts, a copy of the notice shall be filed in the office of the division of local government. The governing body shall also notify the candidates that the election was canceled and that they were elected by acclamation.

### **PART 3 REGISTRATION BOOKS**

**1-5-302. Computer lists may be used in lieu of original registration records.** For the purposes of all elections, the county clerk and recorder may substitute and supply computer lists of registered electors within the political subdivision for the original

registration record. Following a primary, general, or congressional vacancy election, the county clerk and recorder shall record the date of election and, if a primary election, the party ballot received on the registered elector's original registration record retained and stored as provided in section 1-1-104 (36).

**1-5-303. Registration records for nonpartisan elections.** (1) No later than the fortieth day preceding the date of the scheduled nonpartisan election, the designated election official shall order the registration records. The designated election official may order a complete list of the registered electors as of the thirtieth day prior to the election with a supplementary list provided on the twentieth day, or the designated election official may order a complete list as of the twentieth day prior to the election. The county clerk and recorder shall certify and make available a complete copy of the list of the registered electors of each general election precinct that is located within the county and is involved in the election and, if the supplemental list is ordered no later than the twentieth day preceding the election, shall certify and make available a supplemental list of the eligible electors who have become eligible since the earlier list was certified. These lists shall substitute for the original registration record.

(2) The registration list for each election precinct that is certified thirty days before the election shall contain the names and addresses of all registered electors residing within the precinct at the close of business on the fortieth day preceding the election. The registration list for each election precinct that is certified no later than twenty days before the election shall contain the names and addresses of all eligible electors residing within the precinct at the close of business on the thirtieth day prior to the election. If a supplemental list is ordered, it shall contain the names and addresses of all eligible electors who have become eligible within the period since the initial registration list was certified through the close of business on the thirtieth day preceding the election.

(3) Costs for the lists shall be assessed by the county clerk and recorder and paid by the political subdivision holding the election. The fee for furnishing the lists shall be no less than twenty-five dollars for the entire list nor more than one cent for each name contained on the registration list, whichever is greater.

(4) The order for the list may be canceled if the election is canceled pursuant to section 1-5-208 and the county clerk and recorder has not already prepared the list.

**1-5-304. Lists of property owners.** (1) For

elections where owning property in the political subdivision is a requirement for voting in the election, no later than the fortieth day preceding the date of the election, the designated election official, in addition to using the affidavit prescribed in section 32-1-806, C.R.S., shall order the list of property owners from the county assessor. Except as otherwise required under subsection (2) of this section, the county assessor shall certify and deliver an initial list of all recorded owners of taxable real and personal property within the political subdivision no later than thirty days before the election. The supplemental list for the political subdivision shall be provided no later than twenty days before the election and shall contain the names and addresses of all recorded owners who have become owners no later than thirty days prior to the election and after the initial list of property owners was provided. The cost for the lists shall be assessed by the county assessors and paid by the political subdivision holding the election. The fee for furnishing the lists shall be no less than twenty-five dollars for both lists nor more than one cent for each name contained on the lists, whichever is greater.

(2) The designated election official of a special district may order the list described in subsection (1) of this section of all recorded owners of taxable real and personal property within the special district as of the thirtieth day before the election with a supplementary list to be provided on the twentieth day before the election, or the designated election official may order a complete list as of the twentieth day before the election.

#### **PART 4 BALLOTS**

**1-5-401. Method of voting.** The method of voting for all elections may be by paper ballots or by electronic or electromechanical voting systems.

**1-5-405. Arrangement of names on voting machines - testing of machines - repeal.** (1) On all voting machines, the ballot issue concerning the retention in office of justices of the supreme court, judges of the court of appeals, judges of the district court, and judges of the county court, in that order, shall be so placed on the machines that the ballot issues follow the candidates for county, state, and federal offices on the uppermost rows available for the candidate section on the voting machines.

(2) When more than one person is to be elected to an office, only two spaces shall be provided on the voting machine for write-in purposes for each office.

(3) All voting machines, when prepared for the specific election, shall be tested to make certain

that all voting levers are in place and that the machine properly records the votes cast. After the testing, the machine shall be reset to zero votes cast for each office and issue.

(4) This section is repealed, effective January 1, 2006.

**1-5-406. Content of ballots for nonpartisan elections.** The designated election official shall provide printed ballots for every election. The official ballots shall be printed and in the possession of the designated election official at least thirty days before the election. Every ballot shall contain the names of all duly nominated candidates for offices to be voted for at that election, except those who have died or withdrawn, and the ballot shall contain no other names. The arrangement of the names shall be established by lot at any time prior to the certification of the ballot. The designated election official shall notify the candidates of the time and place of the lot-drawing for the ballot. The drawing shall be performed by the designated election official or a designee. The names shall be printed on the ballot without political party designation.

**1-5-407. Form of ballots.** (1) Except as provided in subsections (1.5) and (1.6) of this section, the extreme top part of each ballot may be divided into two spaces by two perforated or dotted lines. Each space shall be not less than one inch wide. The top portion is called the stub, and the next portion is called the duplicate stub. The same number shall be printed upon both the stub and the duplicate stub. All ballots shall be numbered consecutively. All ballots shall be uniform and of sufficient length and width to allow for the names of candidates, officers, ballot issues, and ballot questions to be printed in clear, plain type, with a space of at least one-half inch between the different columns on the ballot. On each ballot shall be printed the endorsement "Official ballot for .....", and after the word "for" shall follow the designation of the precinct, if appropriate, and the political subdivision for which the ballot is prepared, the date of the election, and a facsimile of the signature of the election official. The ballot shall contain no caption or other endorsement, except as provided in this section. The election official shall use precisely the same quality and tint of paper, the same kind of type, and the same quality and tint of plain black ink for all ballots prepared for one election.

(1.5) A duplicate stub is not required for a ballot that is prepared for a mail ballot election pursuant to article 7.5 of this title.

(1.6) No ballot stub is required for a ballot produced on demand, so long as the quantity of ballots produced for the election can be reconciled by



the ballot processing method used by the voting system. Such ballots may contain printed and distinguishing marks, so long as secrecy in voting is protected.

(2) The ballots shall be printed so as to give to each eligible elector a clear opportunity to designate his or her choice of candidates, joint candidates, ballot issues, and ballot questions by a mark as instructed. On the ballot may be printed words that will aid the elector, such as "vote for not more than one".

(3) At the end of the list of candidates for each different office shall be one or more blank spaces in which the elector may write the name of any eligible person not printed on the ballot who has filed an affidavit of intent of write-in candidate pursuant to section 1-4-1101. The number of spaces provided shall be the lesser of the number of eligible electors who have properly filed an affidavit of intent of write-in candidate pursuant to section 1-4-1101 or the number of persons to be elected to the office. No such blank spaces shall be provided if no eligible elector properly filed an affidavit of intent of write-in candidate.

(4) The names of the candidates for each office shall be arranged under the designation of the office as provided in section 1-5-404. The designated election official shall not print, in connection with any name, any title or degree designating the business or profession of the candidate.

(4.5) If no candidate has been duly nominated and no person has properly filed an affidavit of intent of write-in candidate for an office, the following text shall appear under the designation of the office: "There are no candidates for this office."

(5) Whenever the approval of a ballot issue or ballot question is submitted to the vote of the people, the ballot issue or question shall be printed upon the ballot following the lists of candidates. Constitutional issues shall be printed first, followed by statewide issues and questions, county issues and questions, municipal issues and questions, school district issues and questions, ballot issues and questions for other political subdivisions which are in more than one county, and then ballot issues and questions for other political subdivisions which are wholly within a county. The measures in each category shall be placed in the following order: Measures to increase taxes; measures to retain revenues in excess of a district's fiscal year spending limit; measures to increase debt; citizen petitions; and referred measures.

(5.3) Commencing with the general election held in November 2000, each statewide measure initiated by the people shall be numbered

consecutively in regular numerical order beginning with the number twenty. Such consecutive numbering of measures shall continue at any odd-year or general election held after such election at which any such measure is on the ballot beginning with the number following the highest number utilized in the previous election until the number ninety-nine is utilized at an election for any such measure. Such measures shall again be numbered consecutively in regular numerical order beginning with the number one and in accordance with this subsection (5.3) following the utilization of the number ninety-nine for any such measure. The secretary of state may promulgate rules as may be necessary to administer this subsection (5.3), including, but not limited to, rules specifying the grouping of such measures for purposes of such numbering or reserving specific sequences of numbers for certain categories of measures. Such rules shall be promulgated in accordance with article 4 of title 24, C.R.S.

(5.4) Commencing with the general election held in November 2004, each statewide measure referred to the people by the general assembly shall be lettered consecutively in regular alphabetical order beginning with the letter A. The consecutive lettering of statewide referred measures shall continue at any odd-year or general election held after the election at which any statewide referred measure is on the ballot beginning with the letter following the last letter utilized in the previous election until the letter Z is utilized at an election for a statewide referred measure. Statewide referred measures shall again be lettered consecutively in regular alphabetical order beginning with the letter A and in accordance with this subsection (5.4) following the utilization of the letter Z for any statewide referred measure. The secretary of state may promulgate rules as may be necessary to administer this subsection (5.4), including but not limited to rules specifying the grouping of statewide referred measures for purposes of lettering or reserving specific sequences of letters for certain categories of measures. Any rules shall be promulgated in accordance with article 4 of title 24, C.R.S.

(5.5) The coordinated election official may choose to follow the provisions of subsection (5) of this section, or may choose to use separate ballots. If separate ballots are used, the candidates shall be listed first, followed by measures to increase taxes, measures to increase debt, citizen petitions, and referred measures.

(6) Whenever candidates are to be voted for only by the eligible electors of a particular district, county, or other political subdivision, the names of those candidates shall not be printed on any ballots other than those provided for use in the district, county, or political subdivision in which those

candidates are to be voted on.

(7) No printing or distinguishing marks shall be on the ballot except as specifically provided in this code.

(8) The form of the ballot may vary from the requirements of this section if the changes are approved by the secretary of state.

(9) If a referred measure, including but not limited to a measure referred by the school board of a multicounty school district or the board of directors of a multicounty special district to the registered electors of the school district or special district, is referred to registered electors of multiple counties, the alphabetical, numerical, or alphanumerical designation used to identify the measure shall be identical on each ballot that includes the measure.

**1-5-408. Form of ballots - electronic voting.**

(1) Ballot cards placed upon voting equipment shall, so far as practicable, be arranged as provided by sections 1-5-402, 1-5-403, and 1-5-404; except that they shall be of the size and design required by the voting equipment and may be printed on a number of separate ballot cards that are placed on the voting equipment.

(2) If votes are recorded on a ballot card, a separate write-in ballot may be provided, which may be in the form of a paper ballot or envelope on which the elector may write in the title of the office and the name of a qualified write-in candidate.

(3) Polling places that use electromechanical voting systems may use ballot cards of different colors to ensure that electors receive a full ballot. Such polling places may also use ballot cards of different colors for each party at primary elections.

(4) In polling places using electromechanical voting systems, each ballot card may have two stubs attached. Stubs shall be separated from the ballot card and from each other by perforated lines or other means of removal approved by the designated election official so that they may be readily detached. Stubs shall have the serial ballot number printed on them. The size of the ballot stubs and the spacing of the printed material may be varied to suit the conditions imposed by the use of the ballot cards. The ballot stub may also include color marking or wording to indicate that the stub must show when the ballot is voted and placed in the privacy envelope for deposit in the ballot box. The face of the ballot card shall include the endorsement "Official ballot for .....", and after the word "for" shall follow the designation of the precinct, if appropriate, and the political subdivision for which the ballot is prepared, the date of the election, and a facsimile of the signature of the designated election official.

**1-5-409. Single cross mark for party slate not**

**permitted.** Each office in every election shall be voted upon separately, and no emblem, device, or political party designation shall be used on the official ballot at any election by which an eligible elector may vote for more than one office by placing a single cross mark on the ballot or by writing in the name of any political party or political organization.

**1-5-410. Printing and distribution of ballots.** In political subdivisions using paper ballots or electronic ballot cards, the designated election official shall have a sufficient number of ballots printed and distributed to the election judges in the respective precincts. The ballots shall be sent in one or more sealed packages for each precinct with marks on the outside of each clearly stating the precinct and polling place for which it is intended, together with the beginning and ending sequence number of the ballots enclosed. The packages shall be delivered on any day on which a judges' school of instruction is held or by 8 p.m. on the Monday before election day. Receipts for ballots thus delivered shall be given by the election judges who receive the ballots. The receipts shall be filed with the designated election official, who shall also keep a record of the time when and the manner in which each of the packages was delivered. The election judges receiving the packages shall produce them, with the seals unbroken, in the proper polling place at the opening of the polls on election day and, in the presence of all election judges, shall open the packages.

**1-5-411. Substitute ballots.** If the ballots to be furnished to any election judges are not delivered at the time and in the manner required in section 1-5-410 or if after delivery they are destroyed or stolen, it shall be the duty of the designated election official to cause other ballots to be prepared, as nearly in the form prescribed as practicable, with the words "substitute ballot" printed on each ballot. Upon receipt of the ballots thus prepared from the designated election official, accompanied by a statement under oath that the designated election official prepared and furnished the substitute ballots and that the original ballots have not been received or have been destroyed or stolen, the election judges shall cause the substitute ballots to be used at the election. If from any cause neither the official ballots nor the substitute ballots are ready in time to be distributed for the election or if the supply of ballots is exhausted before the polls are closed, unofficial ballots, printed or written, made as nearly as possible in the form of the official ballots, may be used until substitutes prepared by the designated election official can be printed and delivered.

**1-5-412. Correction of errors.** (1) The designated

election official shall correct without delay any errors in publication or in sample or official ballots which are discovered or brought to the official's attention and which can be corrected without interfering with the timely distribution of the ballots.

(2) When it appears by verified petition of a candidate or the candidate's agent to any district court that any error or omission has occurred in the publication of the names or description of the candidates or in the printing of sample or official election ballots which has been brought to the attention of the designated election official and has not been corrected, the court shall issue an order requiring the designated election official to correct the error forthwith or to show cause why the error should not be corrected. Costs, including reasonable attorney fees, may be assessed in the discretion of the court against either party.

(3) If, before the date set for election, any duly nominated candidate withdraws by filing an affidavit of withdrawal with the designated election official or dies and the fact of the death becomes known to the designated election official, the name of the candidate shall not be printed upon the ballots. Except in the case of a vacancy to be filled in accordance with the provisions of section 1-4-1002 (2.5), if the ballots are already printed, the votes cast for the withdrawn or deceased candidate are invalid and shall not be counted.

**1-5-413. Sample ballots.** Sample ballots shall be printed in the form of official ballots, but upon paper of a different color from the official ballots. Sample ballots shall be delivered to the election judges and posted with the cards of instruction provided for in section 1-5-504. All sample ballots are subject to public inspection.

## **PART 5**

### **POLLING PLACE SUPPLIES AND EQUIPMENT**

**1-5-501. Sufficient voting booths, voting machines, or electronic voting equipment.** (1) At all elections in political subdivisions which use paper ballots, the governing body shall provide in each polling place a sufficient number of voting booths. Each voting booth shall be situated so as to permit eligible electors to prepare their ballots screened from observation and shall be furnished with supplies and conveniences necessary for voting.

(2) (a) At all elections in political subdivisions that use electronic or electromechanical voting systems, the designated election official shall supply each precinct with sufficient voting equipment.

(b) At general elections in counties that use electronic or electromechanical voting systems, the

county clerk and recorder shall supply each precinct with one voting booth for each four hundred active registered electors or fraction thereof.

**1-5-502. Ballot boxes for nonmachine voting.** The governing body of each political subdivision using paper ballots or an electronic vote counting system shall provide at least one ballot box for each polling place. For elections which have both receiving and counting judges, the governing body shall provide no less than one ballot box for each set of receiving judges and one ballot box for each set of counting judges at each place of voting. The ballot boxes shall be strongly constructed so as to prevent tampering, with a small opening at the top and with a lid to be locked. The ballot boxes and keys shall be kept by the designated election official and delivered to the election judges no later than the day preceding any election, to be returned as provided in section 1-6-109.5.

**1-5-503. Arrangement of voting equipment or voting booths and ballot boxes.** The voting equipment or voting booths and the ballot box shall be situated in the polling place so as to be in plain view of the election officials and watchers. No person other than the election officials and those admitted for the purpose of voting shall be permitted within the immediate voting area, which shall be considered as within six feet of the voting equipment or voting booths and the ballot box, except by authority of the election judges or the designated election official, and then only when necessary to keep order and enforce the law.

**1-5-504. Instruction cards.** (1) The designated election official of each political subdivision shall furnish to the election judges a sufficient number of instruction cards for the guidance of eligible electors in preparing their ballots. The election judges shall post at least one of the cards in each polling place upon the day of the election. The cards shall be printed in large, clear type and shall contain full instructions to the eligible electors as to what should be done:

- (a) To obtain ballots for voting;
  - (b) To prepare the ballots for deposit in the ballot box;
  - (c) To obtain a new ballot in the place of one spoiled by accident or mistake;
  - (d) To obtain assistance in marking ballots;
- and
- (e) To vote for a write-in candidate.

**1-5-504.5. Items to be posted at the polling place on or before election day.** (1) The following items

shall be posted at each polling place on or before election day:

(a) A polling place sign visible from the outside of the closest entrance to the polling place pursuant to section 1-5-106;

(b) A sign notifying persons outside and inside of the polling place that no electioneering is permitted within one hundred feet of the polling place pursuant to section 1-13-714;

(c) Instruction cards for the guidance of eligible electors pursuant to section 1-5-504;

(d) Sample ballots pursuant to section 1-5-413;

(e) An explanation of the procedures that govern the provision of voting assistance to electors with disabilities who require such assistance pursuant to section 1-7-111. The secretary of state shall promulgate rules in accordance with article 4 of title 24, C.R.S., to prescribe the form of such explanation.

**1-5-505. Election expenses to be paid by**

**county.** (1) Except as provided in section 1-5-505.5, the cost of conducting general, primary, and congressional vacancy elections, including the cost of printing and supplies, shall be a county charge, the payment of which shall be provided for in the same manner as the payment of other county expenses.

(2) (a) For a special legislative election, if the state senatorial or state representative district in which the special legislative election is to be held is comprised of one or more whole counties or a part of one county and all or a part of one or more other counties, the cost of conducting a special legislative election, including the cost of printing and supplies, shall be a county charge of the county in which there were irregularities in the votes cast or counted at the general election for such district.

(b) If the state senatorial or state representative district in which the special election is to be held is comprised of a portion of one county, the cost of conducting a special legislative election, including the cost of printing and supplies, shall be a county charge of such county.

(c) The payment of such costs of a special legislative election shall be provided for in the same manner as the payment of other county expenses.

**1-5-506. Election expenses in nonpartisan**

**elections.** The cost of conducting a nonpartisan election, including the cost of printing, mailing voter information cards pursuant to section 1-5-206, and supplies, shall be paid by the governing body calling the election.

**1-5-507. County clerk and recorder to give**

**estimate.** In any election called by a nonpartisan governing body where the county clerk and recorder

will have responsibilities for the election, the county clerk and recorder shall give to the governing body estimates of the costs for conducting a coordinated election or a mail ballot election so that the governing body may choose the appropriate method of election.

**PART 6  
AUTHORIZATION AND USE OF VOTING  
MACHINES  
AND ELECTRONIC VOTING SYSTEMS**

**1-5-601. Use of voting systems.** In all elections held in this state, the votes may be cast, registered, recorded, and counted by means of an electronic or electromechanical voting system as provided in this part 6.

**1-5-601.5. Compliance with federal requirements.** All voting systems and voting equipment offered for sale on or after May 28, 2004, shall meet the voting systems standards that were promulgated in 2002 by the federal election commission and that may thereafter be promulgated by the federal election assistance commission. Subject to section 1-5-608.2, nothing in this section shall be construed to require any political subdivision to replace a voting system that is in use prior to May 28, 2004.

**1-5-602. Requirements for voting machines - repeal.** (1) No voting machine shall be purchased, leased, or used unless it fulfills the following requirements:

(a) It provides for voting in secrecy;

(b) It is closed during the progress of the voting so that no person can see or know the number of votes registered for any candidate or for whom an elector has voted;

(c) It is capable of containing on its face the form of ballot made up and arranged substantially in the manner prescribed by this article;

(d) It allows a ballot to contain the names of candidates of at least seven political parties or organizations;

(e) It enables each elector to vote a ticket selected in part from the candidates of one party, and in part from the candidates of any other party, and in part from an unaffiliated nomination, and in part from persons not in nomination by any party or upon any unaffiliated ticket;

(f) It prevents the elector from voting for a candidate or on a ballot issue or question for whom

or on which the elector is not lawfully entitled to vote;

(g) It enables each elector to vote for all candidates for whom the elector is entitled to vote and prevents each elector from voting for any candidate for any office more than once unless the elector is lawfully entitled to cast more than one vote for that office and, in that event, permits the elector to cast only as many votes for that office as the elector is by law entitled to cast, and no more;

(h) It is provided with at least twenty pairs of "yes" and "no" counters for voting on ballot issues;

(i) It enables an elector to write in the name of or otherwise vote for persons whose names do not appear on the machine;

(j) It prevents an elector who has exercised a write-in vote from voting for any name appearing on the ballot for the same office;

(k) It will correctly register by means of exact mechanical counters every vote cast for candidates or for ballot issues or questions appearing on the ballot;

(l) It is provided with locks, the keys of which cannot be interchangeably used and by the locking of which any movement of the operating mechanism can be prevented, so that the machine cannot be tampered with or manipulated for any fraudulent purpose;

(m) It has a counter on each machine which will show during the election the total number of electors who have operated the machine at that election; and

(n) It has a protective counter or other device, the register of which cannot be reset, to record the cumulative total number of movements of the operating mechanism.

(2) This section is repealed, effective January 1, 2006.

**1-5-603. Adoption and payment for voting machines.** The governing body of any political subdivision may adopt for use at elections any kind of voting machine fulfilling the requirements for voting machines set forth in section 1-5-602. These voting machines may be used at any or all elections held in the political subdivision for casting, registering, and counting votes. The governing body of any political subdivision which adopts and purchases or leases voting machines shall provide for the payment of the purchase price or the rent in such manner as may be in the best interest of the political subdivision and may for that purpose provide for the issuance of interest-bearing bonds, certificates of indebtedness, or other obligations, which shall be a charge upon the county. The bonds, certificates of indebtedness, or other obligations may be made payable at such times, not exceeding ten years from the date of issue, as may be determined by the governing body but

shall not be issued or sold at less than par.

**1-5-604. Experimental use - repeal.** (1) The governing body of any political subdivision, prior to the adoption of voting machines, may provide, either by contract or rental with option to purchase or otherwise, for the experimental use at any election, in one or more precincts which the governing body may specify, of any voting machine which might be lawfully adopted in accordance with the provisions of this part 6. The experimental use shall be as valid for all election purposes as if the voting machines had been formally adopted, and the cost of the experimental use shall constitute a necessary and proper election expense and shall be payable in accordance with the law.

(2) This section is repealed, effective January 1, 2006.

**1-5-605. Other laws apply - paper ballots permitted for absentee voting - repeal.** (1) All of the provisions of the election laws not inconsistent with the provisions of this part 6 apply to all elections held in precincts where voting machines are used. Any provisions of the election laws which conflict with the use of voting machines as set forth in this part 6 do not apply to precincts in which an election is conducted by the use of voting machines. Nothing in this part 6 shall be construed as prohibiting the use of a separate paper ballot by absentees as provided by law.

(2) This section is repealed, effective January 1, 2006.

**1-5-605.5. Custody of voting system.** The county clerk and recorder or designated election official shall be the custodian of the voting system in a political subdivision and may appoint deputies necessary to prepare and supervise the voting system prior to and during elections.

**1-5-605.7. Mechanical lever voting machines - prohibited.** (1) No voting system using mechanical lever voting machines may be used in any election in this state.

(2) This section shall apply to elections held on and after January 1, 2006.

**1-5-606. Election officials and employees not to have interest in voting equipment or devices.** No election official or employee of an election official having duties or responsibilities in connection with the conduct of any election shall have any financial or proprietary interest, either directly or indirectly, in the manufacture, sale, maintenance, servicing, repair, or transportation of voting equipment. This section shall

not apply to any designated election official or employee of a designated election official participating in a coordinated election who has no independent decision-making responsibility concerning the selection of voting equipment by the county clerk and recorder or whose interest derives solely from ownership of shares in a mutual or pension fund.

**1-5-607. Elected officials not to handle voting equipment or devices.**

(1) In any political subdivision having a population of one hundred thousand or more, it is unlawful for any elected official or candidate for elective office to prepare, maintain, or repair any voting equipment or device that is to be used or is used in any election. The provisions of this section shall be limited to actual physical contact with any voting equipment or device or any of its parts and shall not be construed as prohibiting an elected official from directing employees or other persons who are not elected officials to prepare, maintain, repair, or otherwise handle any voting equipment or devices.

(2) The provisions of this section shall not be construed to prohibit any elected official or candidate for elective office from voting at any election.

(3) The provisions of this section shall not apply to precinct committee persons who act as election judges.

(4) Repealed.

**1-5-608. Requirements - electronic voting systems - repeal.**

(1) No punch card electronic voting system shall be purchased, leased, or used unless it fulfills the following requirements:

(a) It provides for voting in secrecy;

(b) It permits each elector to write in the names of eligible candidates not appearing on the printed ballot, to vote for any candidates whose names are printed on the ballot and for whom the elector is lawfully entitled to vote, to vote for as many candidates for an office as there are vacancies for which the elector is entitled to vote, and to vote for or against any ballot issue upon which the elector is entitled to vote, and it rejects any vote for an office or on a ballot issue if the number of votes exceeds the number which the elector is entitled to cast;

(c) It permits each elector, other than at a primary election, to vote for the candidates of one or more parties and for unaffiliated candidates;

(d) It prevents the elector from voting for the same candidate more than once for the same office; and

(e) It is suitably designed and of durable construction and capable of being used safely, efficiently, and accurately in the conduct of elections and the counting of ballots. When the name of any

candidate or the text of any ballot question or ballot issue is not printed on the ballot card, a booklet with only the name of the candidate and the text of any ballot question or ballot issue shall be provided to the elector.

(2) All voting systems, voting machines, electronic voting devices, punch cards, and nonpunch card electronic voting systems offered for sale on or after June 1, 1991, shall meet the standards promulgated by the federal election commission. Nothing in this subsection (2) shall be construed to require any jurisdiction to replace a voting system which is in use prior to June 1, 1991.

(3) This section is repealed, effective January 1, 2006.

**1-5-608.2. Punch card voting systems - prohibited.** (1) No punch card electronic voting system or other voting system in which the elector uses a device to pierce the ballot may be used in any election in this state.

(2) This section shall apply to elections held on and after January 1, 2006.

**1-5-608.5. Electronic and electromechanical voting systems - independent testing.**

(1) A recognized independent testing authority may test, approve, and qualify electronic and electromechanical voting systems for sale and use in the state of Colorado, if:

(a) The independent testing authority has met all of the obligations and ongoing requirements necessary to gain certification as an independent testing authority from the federal election assistance commission.

(b) The independent testing authority conducts any and all tests required by the federal election assistance commission for granting certification to independent testing authorities to verify the integrity of the electronic and electromechanical voting systems to be used in Colorado.

(2) No electronic or electromechanical voting system shall be used in any public election in this state unless it has been certified by the secretary of state following successful qualification testing conducted by a recognized independent testing authority pursuant to this section.

**1-5-609. Acquisition and use authorized - repeal.**

(1) The governing body of any political subdivision may adopt, experiment with, acquire by purchase, or lease a punch card electronic voting system which meets the requirements of section 1-5-608. It may enlarge, consolidate, or alter the boundaries of precincts in which a punch card electronic voting system is used.

(2) The provisions of this code relating to the

conduct of elections, insofar as they are applicable and not inconsistent with the efficient conduct of elections with punch card electronic voting systems, shall apply.

(3) This section is repealed, effective January 1, 2006.

**1-5-610. Preparation for use - electronic voting.** (1) Prior to an election in which an electronic voting system is to be used, the designated election official shall have all system components prepared for voting and shall inspect and determine that each vote recorder or voting device is in proper working order. The designated election official shall cause a sufficient number of recorders or devices to be delivered to each election precinct in which an electronic voting system is to be used.

(2) The designated election official shall supply each election precinct in which vote recorders or voting devices are to be used with a sufficient number of ballots, ballot cards, sample ballots, ballot boxes, and write-in ballots and with such other supplies and forms as may be required. Each ballot or ballot card shall have a serially numbered stub attached, which shall be removed by an election judge before the ballot or ballot card is deposited in the ballot box.

**1-5-611. Requirements - nonpunch card electronic voting systems.** (1) No nonpunch card electronic voting system shall be purchased, leased, or used unless it fulfills the following requirements:

(a) It provides for voting in secrecy;

(b) It permits each elector to write in the names of eligible candidates not appearing on the printed ballot, to vote for as many candidates for an office as there are vacancies for which the elector is entitled to vote, and to vote for or against any ballot issue upon which the elector is entitled to vote;

(c) It rejects any vote for an office or on a ballot issue if the number of votes exceeds the number the elector is entitled to cast;

(d) It permits each elector, other than at a primary election, to vote for the candidates of one or more parties and for unaffiliated candidates;

(e) It prevents the elector from voting for the same candidates more than once for the same office; and

(f) If the system uses a voting device:

(I) It is suitably designed, of durable construction, and capable of being used safely, efficiently, and accurately in the conduct of elections and the tabulation of votes;

(II) It permits the names of candidates and the text of issues to be printed on pages which are securely attached to the voting device, the pages to

be securely locked in a metal frame or sealed to prevent tampering;

(III) It contains a protective counter with a register which cannot be reset, which shall register the cumulative total number of movements of the operating mechanism; and

(IV) It is capable of providing printouts of vote totals by office and candidate or by ballot issue, including a numeric-only printout to be used for testing as provided in section 1-7-509.

**1-5-612. Use of electronic and electromechanical voting systems.** (1) The governing body of any political subdivision may, upon consultation with the designated election official, adopt an electronic or electromechanical voting system, including any upgrade in hardware, firmware, or software, for use at the polling places in the political subdivision. The system may be used for recording, counting, and tabulating votes at all elections held by the political subdivision.

(2) An electronic or electromechanical voting system may be used on or after May 28, 2004, only if the system has been certified by the secretary of state in accordance with this part 6.

**1-5-613. Purchase and sale of voting equipment.** (1) The secretary of state shall adopt uniform rules in accordance with article 4 of title 24, C.R.S., for the purchase and sale of voting equipment in the state.

(2) On and after May 28, 2004, the governing body or designated election official of a political subdivision may purchase a voting system only if the voting system has been certified for use in this state by the secretary of state in accordance with this part 6.

(3) The governing body or designated election official of a political subdivision shall notify the secretary of state before purchasing or selling voting equipment. The secretary of state shall attempt to coordinate the sale of excess or outmoded equipment by one political subdivision with purchases of necessary equipment by other political subdivisions.

(4) The secretary of state shall provide information at the request of the governing bodies of the various political subdivisions of the state on the availability and sources of new and used voting equipment.

**1-5-614. Certification of electronic and electromechanical voting systems - standards.** The secretary of state shall certify electronic and electromechanical voting systems and approve the purchase, installation, and use of such systems by political subdivisions and establish

standards for certification.

**1-5-615. Electronic and electromechanical voting systems - requirements.** (1) No electronic or electromechanical voting system shall be certified by the secretary of state unless such system:

- (a) Provides for voting in secrecy;
- (b) Permits each elector to vote for all offices for which the elector is lawfully entitled to vote and no others, to vote for as many candidates for an office as the elector is entitled to vote for, and to vote for or against any ballot question or ballot issue on which the elector is entitled to vote;
- (c) Permits each elector to verify his or her votes privately and independently before the ballot is cast;
- (d) Permits each elector privately and independently to change the ballot or correct any error before the ballot is cast, including by voting a replacement ballot if the elector is otherwise unable to change the ballot or correct an error;
- (e) If the elector overvotes:
  - (I) Notifies the elector before the ballot is cast that the elector has overvoted;
  - (II) Notifies the elector before the vote is cast that an overvote for any office, ballot question, or ballot issue will not be counted; and
  - (III) Gives the elector the opportunity to correct the ballot before the ballot is cast;
- (f) Does not record a vote for any office, ballot question, or ballot issue that is overvoted on a ballot cast by an elector;
- (g) For electronic and electromechanical voting systems using ballot cards, accepts an overvoted or undervoted ballot if the elector chooses to cast the ballot, but it does not record a vote for any office, ballot question, or ballot issue that has been overvoted;
- (h) In a primary election, permits each elector to vote only for a candidate seeking nomination by the political party with which the elector is affiliated;
- (i) In a presidential election, permits each elector to vote by a single operation for all presidential electors of a pair of candidates for president and vice president;
- (j) Does not use a device for the piercing of ballots by the elector;
- (k) Provides a method for write-in voting;
- (l) Counts votes correctly;
- (m) Can tabulate the total number of votes for each candidate for each office and the total number of votes for and against each ballot question and ballot issue for the polling place;
- (n) Can tabulate votes from ballots of different political parties at the same polling place in a primary election;

(o) Can automatically produce vote totals for the polling place in printed form; and

(p) Saves and produces the records necessary to audit the operation of the electronic or electromechanical voting system, including a permanent paper record with a manual audit capacity.

(2) The permanent paper record produced by the electronic or electromechanical voting system shall be available as an official record for any recount conducted for any election in which the system was used.

**1-5-616. Electronic and electromechanical voting systems - standards - procedures.** (1) The secretary of state shall adopt rules in accordance with article 4 of title 24, C.R.S., that establish minimum standards for electronic and electromechanical voting systems regarding:

- (a) Functional requirements;
- (b) Performance levels;
- (c) Physical and design characteristics;
- (d) Documentation requirements;
- (e) Evaluation criteria;
- (f) Audit capacity;
- (g) Security requirements;
- (h) Telecommunications requirements; and
- (i) Accessibility.

(2) The secretary of state may review the rules adopted pursuant to subsection (1) of this section governing standards for certification of electronic or electromechanical voting systems to determine the adequacy and effectiveness of the rules in assuring that elections achieve the standards established by section 1-1-103.

(3) The secretary of state shall adopt rules in accordance with article 4 of title 24, C.R.S., to achieve the standards established by section 1-1-103 for the procedures of voting, including write-in voting, and of counting, tabulating, and recording votes by electronic or electromechanical voting systems used in this state.

(4) The secretary of state shall adapt the standards for certification of electronic or electromechanical voting systems established by rule pursuant to subsection (1) of this section to ensure that new technologies that meet the requirements for such systems are certified in a timely manner and available for selection by political subdivisions and meet user standards.

(5) (a) Each designated election official shall establish written procedures to ensure the accuracy and security of voting in the political subdivision. The secretary of state shall review all such procedures.

(b) Each designated election official shall submit any revisions to the accuracy and security procedures to the secretary of state no less than sixty



days before the first election in which the procedures will be used. The secretary of state shall notify the designated election official of the approval or disapproval of said revisions no later than fifteen days after the secretary of state receives the submission.

**1-5-617. Examination - testing -**

**certification.** (1) (a) After an electronic or electromechanical voting system is tested in accordance with section 1-5-608.5, the voting system provider may submit the system to the secretary of state for certification.

(b) The secretary of state shall examine each electronic or electromechanical voting system submitted for certification and determine whether the system complies with the requirements of section 1-5-615 and the standards established under section 1-5-616.

(c) The secretary of state shall decide whether to certify an electronic or electromechanical voting system within ninety days after the system is submitted for certification.

(2) The secretary of state shall appoint one or more experts in the fields of data processing, mechanical engineering, or public administration to assist in the examination and testing of electronic or electromechanical voting systems submitted for certification and to produce a written report on each system.

(3) Neither the secretary of state nor any examiner shall have any pecuniary interest in any voting equipment.

(4) Within thirty days after deciding to certify an electronic or electromechanical voting system, the secretary of state shall make a report on the system containing a description of the system and its operation, with drawings or photographs showing the system. The secretary of state shall send a notice of certification and a copy of the report to the voting system provider that submitted the system for certification. The secretary of state shall notify the governing bodies of the political subdivisions of the state of the certification and make the notice of certification and report available to them upon request.

(5) The designated election official of a political subdivision that plans to use an electronic or electromechanical voting system that has been certified in accordance with this section shall apply to the secretary of state for approval of the purchase, installation, and use of the system. The secretary of state shall prescribe the form and procedure of the application by rule adopted in accordance with article 4 of title 24, C.R.S.

(6) The secretary of state may provide technical assistance to designated election officials

on issues related to the certification of the purchase, installation, and use of electronic and electromechanical voting systems by a political subdivision.

**1-5-618. Modification of electronic and electromechanical voting systems -**

**definitions.** (1) After an electronic or electromechanical voting system has been certified by the secretary of state, a political subdivision may not adopt any modification of the system until the modification is certified by the secretary of state. A person desiring approval of a modification shall submit a written application for approval to the secretary of state.

(2) The requirements for approval of a modified electronic or electromechanical voting system are the same as those prescribed by this part 6 for the initial certification of the system.

(3) The secretary of state shall approve the modified electronic or electromechanical voting system by written order if the modified system satisfies the applicable requirements for certification.

(4) If the secretary of state does not approve the modified design, the secretary of state shall by written order:

(a) Invite the applicant to submit additional information in support of the application, submit the modified electronic or electromechanical voting system itself, or both; or

(b) Require an examination of the modified electronic or electromechanical voting system by independent examiners.

(5) After examining the additional information, the modified electronic or electromechanical voting system, or the report of an independent examiner submitted pursuant to subsection (4) of this section, the secretary of state shall approve the modified system by written order if the system satisfies the applicable requirements for certification.

(6) If a modification to a certified electronic or electromechanical voting system does not satisfy the applicable requirements for certification, the secretary of state shall suspend the sale of the system in this state until the system satisfies the requirements for certification.

(7) For purposes of this section, "modification" means a revision or a new release of an electronic or electromechanical voting system.

**1-5-619. Temporary use of electronic and electromechanical voting systems.**

(1) After an electronic or electromechanical voting system has been tested in accordance with section 1-5-608.5 but has not yet been certified by the secretary of state, a voting system provider or designated election official

may apply to the secretary of state for temporary approval of the system.

(2) The secretary of state shall, by rule adopted in accordance with article 4 of title 24, C.R.S., establish standards and procedures for temporary approval of electronic and electromechanical voting systems.

(3) An electronic or electromechanical voting system may be temporarily approved for a total of no more than one year, and the secretary of state may revoke such approval at any time. Temporary approval of a system shall not supersede the certification requirements of this part 6.

(4) A temporarily approved electronic or electromechanical voting system may not be used in any election without the written authorization of the secretary of state.

(5) A designated election official may enter into a contract to rent or lease a temporarily approved electronic or electromechanical voting system for a specific election with the approval of the secretary of state. A political subdivision shall not acquire title to a temporarily approved system.

(6) The use of a temporarily approved electronic or electromechanical voting system shall be valid for all purposes.

**1-5-620. Electronic or electromechanical voting system information - software.** When a political subdivision purchases or adopts an electronic or electromechanical voting system, the vendor of the system shall send to the secretary of state copies of the software user and operator manuals, and any other information, specifications, or documentation required by the secretary of state relating to a certified system and its equipment. Any such information or materials that are not on file with and approved by the secretary of state, including any updated or modified materials, shall not be used in an election.

**1-5-621. Compliance Definitions -**

1) Notwithstanding any provision of law to the contrary, upon filing of a complaint, the secretary of state shall investigate the complaint and may review or inspect the electronic or electromechanical voting system of a political subdivision at any time, including election day, to determine whether the system complies with the applicable requirements of this part 6 or deviates from a certified system.

(2) A voting system provider or a designated election official using an electronic or electromechanical voting system shall give notice to the secretary of state within twenty-four hours of a malfunction of its system in preparation for or during an election. The notice may be verbal or in writing. For purposes of this section, "malfunction" means a

deviation from a correct value in a voting system.

(3) Upon receipt of the notice sent pursuant to subsection (2) of this section, the secretary of state shall determine whether further information on the malfunction is required. At the written or verbal request of the secretary of state, the voting system provider or designated election official shall submit a report to the secretary of state's office describing the reprogramming or other actions necessary to correct the malfunction of the electronic or electromechanical voting system. The report shall indicate whether permanent changes are necessary to prevent similar malfunctions in the future. The report shall be submitted within thirty days after the date of the request by the secretary of state. Failure to submit the report within the required period shall be grounds to decertify the system. A copy of the report shall be attached to the most recent certification of the system on file in the secretary of state's office. The secretary of state shall distribute a copy of the report to all political subdivisions that use the system.

(4) If the secretary of state determines after inspecting an electronic or electromechanical voting system or reviewing the report submitted pursuant to subsection (3) of this section that the system does not comply with applicable standards or deviates from a certified system, the secretary shall by written order:

(a) Specify actions to remedy the defect in the electronic or electromechanical voting system and direct the designated election official or voting system provider, as appropriate, to perform such actions;

(b) Prohibit the use of the electronic or electromechanical voting system or any part of the system by a political subdivision that adopted the system for use in an election until the actions to remedy the defect are performed and approved by the secretary of state;

(c) Limit the use of the electronic or electromechanical voting system or any part of the system to circumstances or conditions stated in the order; or

(d) Decertify the electronic or electromechanical voting system.

(5) Upon decertification of an electronic or electromechanical voting system, the secretary of state shall notify all political subdivisions that use the system and the providers of the system that the certification of the system for use and sale in this state is withdrawn. The notice shall be in writing and shall indicate the reasons for the decertification of the system and the effective date of the decertification.

(6) Within thirty days after receiving notice from the secretary of state of the decertification of an electronic or electromechanical voting system, a political subdivision or provider of a voting system

that is decertified may request in writing that the secretary of state reconsider its decision to decertify the electronic or electromechanical voting system. Upon receipt of the request, the secretary of state shall hold a public hearing to reconsider the decision to decertify the system. Any interested party may submit testimony or documentation in support of or in opposition to the decision to decertify the system. Following the hearing, the secretary of state may affirm or reverse the decision.

(7) The secretary of state shall amend or rescind an order issued under this section if the secretary of state determines that the electronic or electromechanical voting system has been modified to comply with applicable standards or no longer deviates from the certified system.

## **PART 7 ACCESSIBILITY FOR ELECTORS WITH DISABILITIES**

**1-5-701. Legislative declaration - federal funds.** (1) The general assembly hereby finds and declares that:

(a) It is the intent of the general assembly that all state requirements should meet or exceed the minimum federal requirements for accessibility of voting systems and polling places to persons with disabilities.

(b) All state laws, rules, standards, and codes governing voting systems and polling place accessibility shall be maintained to ensure that the state is eligible for federal funds.

**1-5-702. Definitions.** As used in this part 7, unless the context otherwise requires:

(1) "Accessible voter interface device" means a device that communicates voting instructions and the information on the ballot to an elector and allows the elector to select and vote for candidates, ballot questions, and ballot issues in accordance with the standards in section 1-5-704.

(2) "Alternative formats" has the same meaning ascribed in the federal "Americans with Disabilities Act of 1990", as amended, (P.L. No. 101-336), codified at 42 U.S.C. sec. 12101 et seq., including specifically the technical assistance manuals promulgated thereunder.

(3) "Tactile input device" means a device such as a keyboard with which an elector provides information to a voting system by touching the device.

**1-5-703. Accessibility of polling places to persons with disabilities.** (1) Each polling place shall be made accessible to persons with disabilities by complying with the following standards of

accessibility:

(a) Doors, entrances, and exits used to enter or exit the polling place shall have a minimum width of thirty-two inches.

(b) Any curb adjacent to the main entrance to a polling place shall have curb cuts or temporary ramps.

(c) Any steps necessarily used to enter the polling place shall have a temporary handrail and ramp with edge protection.

(d) At the polling place, no barrier shall impede the path of electors with disabilities to the voting booth.

(2) Emergency polling places are exempt from compliance with this section.

(3) Except as otherwise provided in subsection (2) of this section, a designated election official shall only select as polling places sites that meet the standards of accessibility set forth in subsection (1) of this section.

(4) Before selecting polling places, the designated election official shall submit to the secretary of state an accessibility survey in the form prescribed by the secretary of state identifying the criteria for selecting accessible polling places and applying the criteria to proposed polling places.

**1-5-704. Standards for accessible voting systems.** (1) Notwithstanding any other provision of this article, each voting system certified by the secretary of state for use in local, state, and federal elections shall have the capability to accept accessible voter interface devices in the voting system configuration to allow the voting system to meet the following minimum standards:

(a) The voting system shall provide a tactile input or audio input device, or both.

(b) The voting system shall provide a method by which electors can confirm any tactile or audio input by audio output using synthetic or recorded human speech.

(c) Any operable controls on the input device that are needed by electors who are visually impaired shall be indicated in braille or otherwise discernible tactilely without actuating the keys.

(d) Devices providing audio and visual access shall be able to work both separately and simultaneously.

(e) If a nonaudio access approach is provided, the voting system may not require color perception. The voting system shall use black text or graphics, or both, on white background or white text or graphics, or both, on black background, unless the secretary of state approves other high-contrast color combinations that do not require color perception.

(f) Any voting system that requires any visual perception shall allow the font size as it

appears to the voter to be set from a minimum of fourteen points to a maximum of twenty-four points before the voting system is delivered to the polling place.

(g) The voting system shall provide audio information, including any audio output using synthetic or recorded human speech or any auditory feedback tones that are important for the use of the audio approach, through at least one mode, by handset or headset, at high volume and shall provide incremental volume control with output amplification up to a level of at least ninety-seven decibel sound pressure level.

(h) For voice signals transmitted to the elector, the voting system shall provide a gain adjustable up to a minimum of twenty decibels with at least one intermediate step of twelve decibels.

(i) If the voting system can exceed one hundred twenty decibel sound pressure level, a mechanism shall be included to reset the volume automatically to the voting system's default volume level after every use, such as when the handset is replaced, but not before. Universal precautions in the use and sharing of headsets should be followed.

(j) If sound cues and audible information such as "beeps" are used, simultaneous corresponding visual cues and information shall be provided.

(k) Controls and mechanisms shall be operable with one hand, including with a closed fist, and operable without tight grasping, pinching, or twisting of the wrist.

(l) The force required to operate or activate the controls may not exceed five pounds of force.

(m) Voting booths shall have voting controls at a minimum height of thirty-six inches above the finished floor with a minimum knee clearance of twenty-seven inches high, thirty inches wide, and nineteen inches deep, or the accessible voter interface devices shall be designed so as to allow their use on top of a table to meet such requirements. Tabletop installations shall ensure adequate privacy.

(n) Audio ballots shall meet the following standards:

(I) After the initial instruction from an election official, the elector shall be able to independently operate the voter interface device through the final step of casting a ballot without assistance.

(II) The elector shall be able to determine the offices for which the elector is allowed to vote and to determine the candidates for each office.

(III) The elector shall be able to determine how many candidates may be selected for each office.

(IV) The elector shall have the ability to verify that the physical or vocal inputs given to the voting system have selected the candidates that the

elector intended to select.

(V) The elector shall be able to review the candidate selections that the elector has made.

(VI) Before casting the ballot, the elector shall have the opportunity to change any selections previously made and confirm a new selection.

(VII) The voting system shall communicate to the elector the fact that the elector has failed to vote for an office or has failed to vote the number of allowable candidates for an office and require the elector to confirm his or her intent to undervote before casting the ballot.

(VIII) The voting system shall warn the elector of the consequences of overvoting for an office.

(IX) The elector shall have the opportunity to input a candidate's name for each office that allows a write-in candidate.

(X) The elector shall have the opportunity to review the elector's write-in input to the voter interface device, edit that input, and confirm that the edits meet the elector's intent.

(XI) The voting system shall require a clear, identifiable action from the elector to cast the ballot. The voting system shall explain to the elector how to take this action so that the elector has minimal risk of taking the action accidentally, but when the elector intends to cast the ballot, the action can be easily performed.

(XII) After the ballot is cast, the voting system shall confirm to the elector that the ballot has been cast and the elector's process of voting is complete.

(XIII) After the ballot is cast, the voting system shall prevent the elector from modifying the ballot cast or voting another ballot.

#### **1-5-705. Accessible voter interface devices - minimum requirement.**

(1) A voting system shall include at least one direct recording electronic voting system specially equipped for individuals with disabilities or other accessible voter interface device installed at each polling place that meets the requirements of this section.

(2) This section shall apply to elections held on and after January 1, 2006.

### **PART 8 VOTER-VERIFIED PAPER RECORD**

**1-5-801. Acquisition of voting systems - voter-verified paper record.** (1) On and after June 6, 2005, a political subdivision shall not acquire a voting system unless the voting system is capable of producing a voter-verified paper record of each elector's vote.

(2) A political subdivision shall not acquire a

voting device that has been retrofitted to comply with this part 8 unless the voting device has been certified by an independent testing authority and the secretary of state.

**1-5-802. Use of voting systems - voter-verified paper record.** (1) In addition to the other requirements of this article, the voting system used in each primary, general, coordinated, or congressional district vacancy election held in the state on and after January 1, 2010, shall have the capability to produce a voter-verifiable paper record of each elector's vote. Before an elector's vote is cast, the elector shall have the opportunity, in private and without assistance, to inspect and verify that the voter-verified paper record correctly reflects the elector's choices.

(2) The requirements of subsection (1) of this section shall apply to each primary, general, coordinated, or congressional district vacancy election conducted by a county clerk and recorder on and after January 1, 2008, if the governing body of the county determines that:

(a) The technology necessary to comply with the requirements of subsection (1) of this section is available; and

(b) (I) Sufficient federal or state funds are available to acquire or retrofit voting devices that comply with the requirements of subsection (1) of this section; or

(II) It is otherwise financially feasible for the county to comply with the requirements of subsection (1) of this section.

(3) Upon satisfaction by a county of the election official.

1-6-119. Removal of election judges by designated election official

1-6-120. Removal of election judges by the court.

**1-6-101. Definitions - qualifications for election judges - student election judges - legislative declaration.** (1) As used in this article, "election judge" means a registered elector appointed by the county clerk and recorder or designated elected official to perform the election duties assigned by the county clerk and recorder or designated election official. As used in this article, "election judge" also includes a student election judge appointed pursuant to the provisions of subsection (7) of this section.

(2) The persons appointed as election judges, except for persons appointed as student election judges pursuant to the provisions of subsection (7) of this section, shall certify in writing that they meet the following qualifications:

(a) They are registered electors who reside in the political subdivision, unless otherwise excepted, and are willing to serve;

(b) They are physically and mentally able to

requirements of this section, the voter-verified paper record of each eligible elector's vote, whether filled out by hand or produced by a voting machine or ballot marking device, shall be preserved as an election record pursuant to section 1-7-802 and shall constitute an official record of the election.

(4) No voting device shall be remotely accessed or remotely accessible until after the close of voting and a results total tape has been printed, as applicable. 1-6-101. Definitions - qualifications for election judges - student election judges - legislative declaration.

## **Article 6 Election Judges**

1-6-104. Appointment of election judges by the county clerk and recorder and designated election officials.

1-6-105. Appointment of election judges for elections not coordinated by the county clerk and recorder.

1-6-106. Confirmation and acceptance of election judge appointment.

1-6-107. Acceptances - school of instruction - appointment of supply judge. (Repealed)

1-6-108. Lists of election judges.

1-6-109.5. Appointment and duties of supply judge.

1-6-111. Number of election judges.

1-6-113. Vacancies.

1-6-114. Oath of judges.

1-6-115. Compensation of judges.

perform and complete the assigned tasks;

(c) They will attend a class of instruction concerning the tasks of an election judge prior to each election;

(d) They have never been convicted of election fraud, any other election offense, or fraud; and

(e) They are neither a candidate whose name appears on the ballot in the precinct that they are appointed to serve nor a member of the immediate family, related by blood or marriage to the second degree, of a candidate whose name appears on the ballot in the precinct that they are appointed to serve.

(3) With regard to any nonpartisan election that is not coordinated by the county clerk and recorder, the election judge shall be a registered elector of the political subdivision for which the election is being held. If enough registered electors of the political subdivision are not available, then the appointing authority may appoint election judges who are registered electors of the state.

(4) Before serving as an election judge, any person recommended as an election judge in

accordance with section 1-6-102, 1-6-103, 1-6-103.5, or 1-6-103.7 shall complete and file an acceptance form with the county clerk and recorder or other designated election official as provided in section 1-6-106. The acceptance forms may be kept on file with the county clerk and recorder or other designated election official for up to two years from the date of signing the acceptance form.

(5) The county clerk and recorder or the designated election official shall hold a class of instruction concerning the tasks of an election judge and a special school of instruction concerning the task of a supply judge not more than thirty-two days prior to each election.

(6) Each person appointed as an election judge shall be required to attend one class of instruction prior to the first election in an election cycle in which the person will serve as an election judge. The county clerk and recorder or other designated election official may require a person appointed as an election judge to attend more than one class of instruction in an election cycle.

(7) (a) The general assembly hereby finds and declares that, in order to promote a greater awareness among young people concerning the electoral process, the rights and responsibilities of voters, and the importance of citizen participation in public affairs, as well as to provide additional qualified individuals willing and able to assist with the electoral process, qualified students may be allowed to serve as student election judges. Therefore, it is the intent of the general assembly in enacting this subsection (7) to authorize county clerk and recorders to appoint qualified students to serve as election judges in conformity with the requirements of this section.

(b) As used in this article, "student election judge" means a student who meets the requirements of this subsection (7) and who is appointed by a county clerk and recorder for service as an election judge pursuant to the requirements of this section.

(c) The county clerk and recorders may work with school districts and public or private secondary educational institutions to identify students willing and able to serve as student election judges. Such school districts or educational institutions may submit the names of the students to the clerk and recorder of the county in which the school district or educational institution is located for appointment as student election judges. Home-schooled students may apply to the county clerk and recorder for appointment as a student election judge pursuant to the requirements of this section. From among the names submitted, the county clerk and recorders may select students to serve as student election judges who meet the following qualifications:

(I) They are a United States citizen or will be

a citizen at the time of the election to which the student is serving as a student election judge;

(II) They are willing to serve;

(III) They are physically and mentally able to perform and complete the assigned tasks;

(IV) They will attend a class of instruction concerning the tasks of an election judge prior to each election;

(V) They have never been convicted of election fraud, any other election offense, or fraud;

(VI) They are not a member of the immediate family, related by blood or marriage to the second degree, of a candidate whose name appears on the ballot in the precinct that they are appointed to serve;

(VII) They are sixteen years of age or older and either a junior or senior in good standing attending a public or private secondary educational institution or being home-schooled at the time of the election to which the student is serving as a student election judge; and

(VIII) Their parent or legal guardian has consented to their service as a student election judge.

#### **1-6-104. Appointment of election judges by the county clerk and recorder and designated election officials.**

(1) For each election coordinated by the county clerk and recorder, the county clerk and recorder shall appoint election judges for each precinct in the county. An election judge for a precinct shall serve for a two-year period beginning on the last Tuesday of May in even-numbered years and ending on the last Monday in May of the next even-numbered year or until the designated election official appoints another person to replace that election judge for that precinct, whichever is earlier.

(2) The county clerk and recorder may appoint an election judge to serve in a precinct of the county other than the precinct in which the election judge resides.

(3) If, at the time the county clerk and recorder appoints election judges for a precinct, the list of recommended election judges submitted in accordance with section 1-6-102 contains an insufficient number of names for a major political party's share of the total number of election judges as required in section 1-6-109, the designated election official shall appoint any additional election judges necessary from among the persons recommended by minor political parties in accordance with section 1-6-103.5 and the unaffiliated voters who have offered to serve as election judges in accordance with section 1-6-103.7.

(4) For each election coordinated by the county clerk and recorder, the county clerk and recorder may appoint one or more student election

judges that satisfy the requirements contained in section 1-6-101 (7) to serve as an election judge, and shall designate the precinct in which the student election judge shall serve based upon the number of qualified students and vacancies in the number of available positions for election judges throughout the county, notwithstanding the fact that a student election judge may serve in a precinct of the county other than the precinct in which the student election judge resides.

**1-6-105. Appointment of election judges for elections not coordinated by the county clerk and recorder.** (1) Except as provided for special district elections in subsection (1.5) of this section, no later than forty-five days before the regular election, the governing body with authority to call elections shall appoint election judges for the political subdivision. The term of office of election judges shall be two years from the date of appointment.

(1.5) No later than forty-five days before a regular special district election, the designated election official shall appoint election judges for the special district unless otherwise directed by the board of directors of such district.

(2) Any person who has been appointed by a county clerk and recorder and meets the qualifications as prescribed in section 1-6-101 may be appointed as an election judge for elections not coordinated by the county clerk and recorder.

**1-6-106. Confirmation and acceptance of election judge appointment.** (1) The designated election official shall confirm the appointments of election judges by mailing each appointed election judge a certification of appointment and an acceptance form.

(2) The acceptance form shall contain:

(a) The statement of qualifications as prescribed in section 1-6-101; and

(b) A statement that, if the person appointed as an election judge either fails to file the acceptance form within seven days after the certification of appointment and acceptance form are mailed or fails to attend a class of instruction as required in section 1-6-101 (5), the designated election official may determine that a vacancy has been created.

(3) Each person appointed as an election judge shall file an acceptance form in the office of the designated election official within seven days after the certification of appointment and acceptance form have been mailed. If a person appointed as an election judge fails to file the acceptance form as described in subsection (2) of this section or fails to attend a class of instruction as required in section 1-6-101 (5), the designated election official may determine that a vacancy has been created.

**1-6-107. Acceptances - school of instruction - appointment of supply judge.** (Repealed)

**1-6-108. Lists of election judges.** (1) The designated election official shall make and maintain a master list of election judges who have filed an acceptance form in accordance with section 1-6-101 (4). The master list shall include the name, affiliation, and precinct number of each election judge who has filed an acceptance form, including whether such judge is unaffiliated, affiliated with a minor political party, or affiliated with a qualified political organization.

(2) Any person may obtain, upon written request and payment of the appropriate fee, an exact copy of the list of county election judges from the county clerk and recorder.

**1-6-109.5. Appointment and duties of supply judge.** (1) The designated election official shall appoint one election judge in each precinct as supply judge. To the extent possible, the supply judge shall be from a major political party. The designated election official shall notify the supply judge of the appointment.

(2) For partisan elections, each major political party is entitled to one-half of the total number of supply judges appointed. If an odd number of supply judges is appointed, the county clerk and recorder shall determine which major political party is entitled to the one extra supply judge. The county clerk and recorder shall make this determination by the mutual agreement of the two major political parties or, if the two major political parties cannot agree, by lot.

(3) Prior to the election, the supply judge shall attend a special school of instruction held by the designated election official.

(4) (a) The supply judge shall coordinate the conduct of the election in the precinct. For nonpartisan elections, the supply judge's responsibilities shall include receiving election supplies and equipment from the designated election official, delivering election supplies and equipment to the polling place, and returning all election supplies, election equipment, and ballots to the designated election official once the election is concluded.

(b) For partisan elections, the county clerk and recorder may deputize a courier to return the election supplies, election equipment, and ballots to the county clerk and recorder once the election is concluded. If the county clerk and recorder does not deputize a courier, the supply judge and a second election judge from the precinct shall return the election supplies, election equipment, and the ballots to the county clerk and recorder. The second election judge shall be selected by the election

judges in the precinct other than the supply judge and shall be of a political affiliation different than the supply judge.

**1-6-111. Number of election judges.** (1) For partisan elections, the county clerk and recorder shall appoint at least three election judges to serve as polling place judges for each precinct to perform the designated functions, one of whom may be a student election judge appointed pursuant to the provisions of section 1-6-101 (7). In each precinct, notwithstanding any other provision of this article and subject to the availability of election judges who meet the affiliation requirements of section 1-6-109, of the election judges appointed to serve as polling place judges pursuant to the provisions of this subsection (1), there shall be at least one election judge from each major political party who is not a student election judge.

(2) (Deleted by amendment, L. 98, p. 580, § 10, effective April 30, 1998.)

(3) When two election judges who are not of the same political affiliation are present at the polls, voting may proceed.

(4) For nonpartisan elections, the designated election official shall appoint no less than two election judges to serve as polling place judges for each precinct to perform the designated functions.

(5) The designated election official and, for partisan elections, the county clerk and recorder may appoint other election judges as needed to perform duties other than polling place duties. These duties may include but are not limited to inspecting ballots, duplicating ballots, and counting paper ballots. For partisan elections, if the county clerk and recorder appoints election judges to perform duties other than polling place duties, the county clerk and recorder shall appoint two election judges to perform such duties. The two election judges so appointed shall not be of the same political affiliation.

(6) For any election in which polling places or precincts are combined or vote centers are established in accordance with section 1-5-102.7, the county clerk and recorder or the designated election official may assign one set of election judges to perform the functions for all precincts and polling places so combined or for each vote center.

(7) Where student election judges have been appointed by the county clerk and recorder to serve in a particular precinct pursuant to the provisions of this article, no more than two such student election judges shall serve as election judges in any one precinct.

**1-6-113. Vacancies.** (1) If for any reason any person selected to serve as an election judge fails to attend the class of instruction for election judges, or

refuses, fails, or is unable to serve, or is removed by preemption in accordance with section 1-6-119 (1) or for cause in accordance with section 1-6-119 (2), the designated election official thereafter may appoint an election judge to fill such vacancy. For a partisan election, an election judge shall be appointed to fill such vacancy from the list of names previously submitted by the county chairperson of the political party to which the person belongs. If a vacancy occurs in a partisan election and no persons are available from such list, then the county clerk and recorder may appoint a person from among the persons recommended by minor political parties in accordance with section 1-6-103.5 and the unaffiliated voters who have offered to serve as election judges in accordance with section 1-6-103.7.

(2) If any election judge is not present at the opening of the polls but appears at the polling place within thirty minutes after the opening of the polls, that election judge is entitled to serve as an election judge, and in such event the election judges shall make note of this fact in their official returns. If a vacancy occurs on the date of any election by failure of any election judge to appear at the polling place by 7:30 a.m., the vacancy may be filled by the designated election official.

**1-6-114. Oath of judges.** (1) Before beginning the duties of an election judge, each person appointed as an election judge shall take a self-affirming oath or affirmation in substantially the following form:

"I, ....., do solemnly swear (or affirm) that I am a citizen of the United States and the state of Colorado; that I am an eligible elector who resides in the county of ..... or within the ..... political subdivision; that I am a member of the ..... party (or that I am unaffiliated with a political party) as shown on the registration books of the county clerk and recorder; that I will perform the duties of judge according to law and the best of my ability; that I will studiously strive to prevent fraud, deceit, and abuse in conducting the same; that I will not try to determine how any elector voted, nor will I disclose how any elector voted if in the discharge of my duties as judge such knowledge shall come to me, unless called upon to disclose the same before some court of justice; that I have never been convicted of election fraud, any other election offense, or fraud and that, if any ballots are counted before the polls close on the date of the election, I will not disclose the result of the votes until after the polls have closed and the results are formally announced by the designated election official."

(2) (Deleted by amendment, L. 95, p. 838, § 54, effective July 1, 1995.)



(3) For nonpartisan elections, the election judges shall not be required to declare their affiliation on the oath or affirmation.

**1-6-115. Compensation of judges.** (1) In all elections, including primary and general elections, each election judge serving in the precincts on election day shall receive not less than five dollars as compensation for services provided as judge at any election. A student election judge appointed pursuant to the provisions of this article may receive up to but no more than seventy-five percent of the compensation received by an election judge for service provided as judge at any election.

(2) In addition to the compensation provided by subsection (1) of this section, each election judge and student election judge may be paid expenses and reasonable compensation for attending election schools which may be established by the county clerk and recorder or the designated election official. Each supply judge appointed by the county clerk and recorder shall be reimbursed no less than five dollars for attending a special school of instruction.

(2.5) The supply judge and, for partisan elections, the second election judge selected in accordance with section 1-6-109.5 (4) (b) shall be paid no less than four dollars for returning the election supplies, election equipment, and the ballots to the designated election official. The person providing the transportation may be paid a mileage allowance, to be set by the designated election official but not to exceed the mileage rate authorized for county officials and employees, for each mile necessarily traveled in excess of ten miles in going to and returning from the office of the designated election official.

(3) Compensation for election judges shall be determined and paid by the governing body calling the election. Compensation for all judges shall be uniform throughout a particular political subdivision, except the compensation of student election judges shall be set in conformity with subsection (1) of this section.

(4) Election judges must give the designated election officials their social security numbers in order to receive compensation; however, service as an election judge shall not be considered employment pursuant to articles 70 to 82 of title 8, C.R.S.

**1-6-119. Removal of election judge by designated election official.** (1) If a county chairperson of a major political party or the county chairperson or other authorized official of a minor political party believes that an election judge appointed to represent that party is not faithfully or fairly representing the party or that an election judge has moved from the county, the county chairperson or authorized official

may exercise a preemptive removal of the election judge. The county chairperson or authorized official shall notify the county clerk and recorder and the election judge of the preemptive removal in writing. The county clerk and recorder shall fill any vacancy created by the preemptive removal as provided in section 1-6-113.

(2) Prior to election day, the designated election official may remove an election judge for cause. Cause includes but is not limited to the election judge's failure to file an acceptance form in accordance with sections 1-6-101 and 1-6-106 and the election judge's failure to attend a class of instruction as required in section 1-6-101 (5).

(3) On election day, the designated election official may remove an election judge who has neglected the duties of the office by failing to appear at the polling place by 7:30 a.m., by leaving the precinct polling place before completing all of the duties assigned, by being unable or unwilling or by refusing to perform the duties of the office, or by electioneering.

(4) Upon receipt of a written complaint made by an eligible elector of the political subdivision concerning an election judge, the designated election official shall investigate the complaint and may remove the election judge and appoint another election judge in accordance with section 1-6-113.

**1-6-120. Removal of election judges by the court.** (1) Upon the failure or neglect of any election judge to perform the duties of the office, any other election judge, the designated election official, the county chairperson of a political party, or an eligible elector of the political subdivision for which the election judge is appointed, having knowledge of the failure or neglect, shall cause proper action for removal to be instituted against the election judge.

(2) Election judges who neglect their duties, who commit, encourage, or connive in any fraud in connection with their duties, who violate any of the election laws or knowingly permit others to do so, who are convicted of any crime, who violate their oath, who wrongfully hamper or interfere or tend to interfere with the regular performance of the duties of the other election judges, who commit any other act that interferes or tends to interfere with a fair and honest registration and election, or who are not appointed in accordance with the provisions of this article may be removed in the following manner:

(a) Any eligible elector may file a brief petition in the district court at any time up to twelve days before any election, setting out in brief and concise language the facts constituting the cause for the removal of the election judge. The petition shall be verified, but the verification may be upon information and belief. Upon filing of the petition, the

court shall issue a citation to the election judge directing an appearance within forty-eight hours to answer the petition if the election judge desires to do so.

(b) The court shall proceed summarily to hear and finally dispose of the petition and may set a hearing within forty-eight hours after the answer is filed. Evidence given by any accused election judge at the hearing shall not be used against that election judge in any civil, criminal, or other proceedings. If the court decides that the election judge should be removed for any cause stated in the petition, the court shall so order and shall immediately notify the appropriate election official.

(3) The validity of any part of the registration or election already completed or other acts performed under this code, if otherwise legally performed, shall not be affected by the removal of an election judge and shall be in every respect valid and regular. The successor of any election judge removed shall proceed with the duties of the election judge with the same power and effect as though originally appointed.

#### **1-6-121. Election judge vacancies. (Repealed)**

### **Article 7 Conduct of Elections**

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## **PART 1 HOURS OF VOTING, REGISTRATION, OATHS, AND ASSISTANCE TO VOTE**

**1-7-101. Hours of voting.** (1) All polls shall be opened continuously from 7 a.m. until 7 p.m. of each election day. If a full set of election judges is not present at the hour of 7 a.m. and it is necessary for judges to be appointed to conduct the election as provided in section 1-6-113 (2), the election may commence when two judges who are not of the same political affiliation for partisan elections are present at any hour before the time for closing the polls. The polls shall remain open after 7 p.m. until every eligible elector who was at the polling place at or before 7 p.m. has been allowed to vote. Any person arriving after 7 p.m. shall not be entitled to vote.

(2) Upon the opening of the polls, a proclamation shall be made by one of the judges that the polls are open, and, thirty minutes before the closing of the polls, a proclamation shall be made that the polls will close in thirty minutes.

**1-7-102. Employees entitled to vote.** (1) Eligible electors entitled to vote at an election shall be entitled to absent themselves for the purpose of voting from any service or employment in which they are then engaged or employed on the day of the election for a

period of two hours during the time the polls are open. Any such absence shall not be sufficient reason for the discharge of any person from service or employment. Eligible electors, who so absent themselves shall not be liable for any penalty, nor shall any deduction be made from their usual salary or wages, on account of their absence. Eligible electors who are employed and paid by the hour shall receive their regular hourly wage for the period of their absence, not to exceed two hours. Application shall be made for the leave of absence prior to the day of election. The employer may specify the hours during which the employee may be absent, but the hours shall be at the beginning or end of the work shift, if the employee so requests.

(2) This section shall not apply to any person whose hours of employment on the day of the election are such that there are three or more hours between the time of opening and the time of closing of the polls during which the elector is not required to be on the job.

**1-7-103. No voting unless eligible** - first-time voters casting a ballot in person after having registered by mail to vote. (1) No person shall be permitted to vote at any election unless the person's name is found in the registration record and all other requirements for voting as may be required by authorizing legislation have been met.

(2) A person otherwise eligible to vote whose name has been omitted from the registration list or property owner's list shall be permitted to vote upon taking substantially the following oath: "I do solemnly swear or affirm that I am a citizen of the United States of the age of eighteen years or older; that I have been a resident of this state and precinct for thirty days immediately preceding this election and have not maintained a home or domicile elsewhere; that I am a registered elector in this precinct; that I am eligible to vote at this election; and that I have not previously voted at this election."; and

(a) Presenting to an election judge a certificate of registration issued on election day by the county clerk and recorder or a certificate of property ownership issued on election day by the county assessor; or

(b) An election judge obtaining verbal verification of the registration from the county clerk and recorder on election day, or obtaining verbal verification of property ownership from the county assessor on election day.

(3) The election judges, or any one of them, shall promptly contact the county clerk and recorder or the county assessor for the verbal verification so that every eligible elector present at the polling place is allowed to vote. Notation of verbal verification of registration or property ownership shall be made in

the records of the election judges and in the records of the county clerk and recorder and assessor. All certificates of registration shall be surrendered to the election judges and returned to the designated election official with other election records and supplies.

(4) The self-affirming oath or affirmation provided in section 32-1-806 (2), C.R.S., if applicable to the election, may be accepted by an election judge in place of the oath and certificate or verbal verification required by subsection (2) of this section so that every eligible elector present at the polling place is allowed to vote.

(5) (a) Subject to the requirements of section 1-2-501 (2), the requirements of this subsection (5) shall apply to any person who has registered to vote by mail in accordance with part 5 of article 2 of this title and who:

(I) Has not previously voted in an election in Colorado; or

(II) Is reregistering to vote after moving from one county in this state to another and the election in which the person intends to vote takes place prior to the creation by the department of state of a computerized statewide voter registration list that satisfies the requirements of part 3 of article 2 of this title.

(b) Any person who matches either of the descriptions specified in subparagraph (I) or (II) of paragraph (a) of this subsection (5) and intends to cast his or her ballot in person shall present to the appropriate election official at the polling place identification within the meaning of section 1-1-104 (19.5).

(c) Any person who desires to cast his or her ballot in person but does not satisfy the requirements of paragraph (b) of this subsection (5) may cast a provisional ballot in accordance with the requirements of article 8.5 of this title.

**1-7-104. Affidavits of eligibility.** (1) In any election where the list of registered electors and property owners is not divided by precinct, where an eligible elector may vote at any polling place in a political subdivision, or where an elector's name is not on the list of registered electors or property owners, an affidavit signed by the eligible elector stating that the elector has not previously voted in the election may be required prior to allowing the elector to cast a ballot.

(2) (Deleted by amendment, L. 96, p. 1745, § 40, effective July 1, 1996.)

**1-7-105. Watchers at primary elections.** (1) Each political party participating in a primary election shall be entitled to have a watcher in each precinct in the county. The chairperson of the county central

committee of each political party shall certify the persons selected as watchers on forms provided by the county clerk and recorder.

(2) In addition, candidates for nomination on the ballot of any political party in a primary election shall be entitled to appoint some person to act on their behalf in every precinct in which they are a candidate. Each candidate shall certify the persons appointed as watchers on forms provided by the county clerk and recorder.

**1-7-106. Watchers at general and congressional vacancy elections.** Each participating political party or issue committee whose candidate or issue is on the ballot, and each unaffiliated and write-in candidate whose name is on the ballot for a general or congressional vacancy election shall be entitled to have no more than one watcher at any one time in each precinct polling place in the county and at each place where votes are counted in accordance with this article. The chairperson of the county central committee of each major political party, the county chairperson or other authorized official of each minor political party, the issue committee, the write-in or unaffiliated candidate shall certify the names of one or more persons selected as watchers on forms provided by the county clerk and recorder. The watchers shall surrender the certificates to the election judges at the time they enter the polling place and are sworn by the judges. This section shall not prevent party candidates or county party officers from visiting polling places to observe the progress of voting in the precincts.

**1-7-107. Watchers at nonpartisan elections.** Candidates for office in nonpartisan elections, and proponents and opponents of a ballot issue, are each entitled to appoint one person to act as a watcher in every polling place in which they are a candidate or in which the issue is on the ballot. The candidates or proponents and opponents shall certify the names of persons so appointed to the designated election official on forms provided by the official.

**1-7-108. Requirements of watchers.** (1) Watchers shall take an oath administered by one of the election judges that they are eligible electors, that their name has been submitted to the designated election official as a watcher for this election, and that they will not in any manner make known to anyone the result of counting votes until the polls have closed.

(2) Neither candidates nor members of their immediate families by blood or marriage to the second degree may be poll watchers for that candidate.

(3) Each watcher shall have the right to

maintain a list of eligible electors who have voted, to witness and verify each step in the conduct of the election from prior to the opening of the polls through the completion of the count and announcement of the results, to challenge ineligible electors, and to assist in the correction of discrepancies.

**1-7-109. Judges to keep pollbooks.** (1) The election judges shall keep a pollbook which shall contain one column headed "names of voters" and one column headed "number on ballot". The name and the number on the ballot of each eligible elector voting shall be entered successively under the appropriate headings in the pollbook.

(2) When preprinted signature cards are provided for each eligible elector containing the elector's name, address, birth date, and for primary elections the elector's affiliation, the use of a pollbook shall not be required. The ballot stub number of the ballot issued to the elector shall be written on the preprinted signature card. The preprinted signature cards may also constitute the computer list of eligible electors.

**1-7-110. Preparing to vote.** (1) Except as provided in subsection (4) of this section, any eligible elector desiring to vote shall show his or her identification as defined in section 1-1-104 (19.5), write his or her name and address on the signature card, and give the signature card to one of the election judges, who shall clearly and audibly announce the name in a loud and distinct tone of voice. An eligible elector who is unable to write may request assistance from one of the election judges, who shall also sign the signature card and witness the eligible elector's mark. The signature card shall provide: "I, ....., who reside at ....., am an eligible elector of this precinct or district and desire to vote at this ..... election.  
Date ....."

(2) If the eligible elector shows identification within the meaning of section 1-1-104 (19.5) and the elector's name is found on the registration list or, where applicable, the property owner's list by the election judge in charge, the elector's name shall be repeated. The judge in charge of the pollbook or list shall then enter the eligible elector's name, and the eligible elector shall be allowed to enter the immediate voting area. Besides the election officials, no more than four electors more than the number of voting booths shall be allowed within the immediate voting area at one time.

(2.5) If the elector's qualification to vote is established by the completion of an affidavit, and if the affidavit contains all of the information required in subsection (1) of this section, then the designated election official may consider the affidavit the

signature card or may require the completion of an additional signature card.

(3) The completed signature cards shall be returned with other election materials to the designated election official.

(4) An eligible elector who is unable to produce identification may cast a provisional ballot in accordance with article 8.5 of this title

**1-7-111. Disabled registered elector - assistance.** (1) (a) If at any election, any registered elector declares to the election judges that, by reason of blindness or other physical disability or inability to read or write, he or she is unable to prepare the ballot or operate the voting device or electronic voting device without assistance, the elector shall be entitled, upon making a request, to receive the assistance of any one of the election judges or, at the elector's option, any eligible elector selected by the disabled eligible elector.

(b) Any person other than an election judge or the spouse, parent, grandparent, sibling or child eighteen years or older of the elector who assists more than one eligible elector in the precinct in casting his or her ballot shall first complete the following voter assistance/disabled voter self-affirmation form: "I, ....., certify that I am the individual chosen by the disabled elector to assist the disabled elector in casting a ballot".

(2) Notwithstanding the provisions of sections 1-8-115 and 1-8-302, in every political subdivision, physically disabled eligible electors shall be allowed to vote at the absentee voters' polling place on election day. More than one absentee voters' polling place may be established in a county for the purposes of this subsection (2). Prior to voting, if possible, the disabled eligible elector intending to vote at the absentee voters' polling place on election day shall complete the following self-affirmation form. If the disabled elector cannot read or write, or is unable to sign his or her name, the election official or person assisting the elector shall read the form aloud to the elector, and, upon the affirmation of the elector, will mark that the elector requesting assistance has affirmed that the facts on the form are true and correct. If the disabled elector is able to read and write, he or she shall complete the voter assistance/disabled voter self-affirmation form. The form shall provide:

"I, ....., affirm that I am an eligible elector in this political subdivision located in the county of ....., state of Colorado; that I shall vote today at this polling place. I further affirm that I have not, nor will I, cast a vote by any other means in this election."

(3) After the voter assistance/disabled voter self-affirmation form is completed, a corresponding

entry shall be made on the back of the printed list or computer list. If assistance to a disabled eligible elector occurs at the precinct polling place, an entry

**1-7-112. Non-English speaking electors - assistance.** (1) (a) If at any election, any elector requests assistance in voting, by reason of difficulties with the English language, he or she is unable to prepare the ballot or operate the voting device or electronic voting device without assistance, the elector shall be entitled, upon making a request, to receive the assistance of an election judge, any person selected by the designated election official to provide assistance in that precinct, or any person selected by the eligible elector requesting assistance, provided that the person rendering assistance can provide assistance in both the language in which the elector is fluent and in English. No person, other than an election judge or person selected by the designated election official to provide assistance, shall be permitted to assist more than one elector per election unless the person is the elector's spouse, parent, grandparent, sibling, or child eighteen years or older.

(b) Any person who assists any eligible elector to cast his or her ballot shall first complete the following voter assistance/disabled voter self-affirmation form: "I, ....., shall not in any way attempt to persuade or induce the elector to vote in a particular manner nor will I cast the elector's vote other than as directed by the elector whom I am assisting."

(2) When assistance is provided to an elector, the name of each eligible elector assisted and the name of the person assisting shall be recorded in the pollbook or list.

**1-7-113. Influencing electors.** No person who assists an elector as authorized by this title shall seek to persuade or induce the eligible elector to vote in a particular manner.

**1-7-114. Write-in votes.** (1) Eligible electors may cast a write-in vote for a candidate who has filed an affidavit of intent of write-in candidacy pursuant to section 1-4-1101 by writing the name of the person in the blank space provided for write-in candidates on the ballot. Each write-in vote may include a reasonably correct spelling of a given name, an initial or nickname, or both a given name and an initial or nickname, and shall include the last name of the person for whom the vote is intended. Whenever write-in votes are cast, they shall be counted only when the intention of the elector is clearly apparent.

(2) A vote for a write-in candidate shall not be counted unless that candidate is qualified to hold the office for which the elector's vote was cast.

shall be made on the pollbook or list of the name of each eligible elector assisted and the name of each person assisting.

(3) If the elector has cast more votes for an office than he or she is lawfully entitled to cast, by voting for both a candidate appearing on the ballot and a valid write-in candidate, neither of the votes for the office shall be counted.

(4) (a) The designated election official shall make a list of eligible write-in candidates and provide the list to the election judges. The order of the write-in candidates on such list may be determined by the time of filing the affidavit pursuant to section 1-4-1101.

(b) Except as may be required to accommodate a person with a disability, election judges shall not verbally comment on write-in candidates. Upon request of an eligible elector, an election judge may display to the requesting elector the list of eligible write-in candidates provided to the judges by the designated election official. The list shall not be posted nor may the list be taken into a voting booth.

**1-7-115. Time in voting area.** Eligible electors shall cast their ballots without undue delay and shall leave the immediate voting area as soon as voting is complete. No eligible elector shall be allowed to occupy a voting booth already occupied by another, nor to remain within the immediate voting area more than ten minutes, nor to occupy a voting booth for more than ten minutes if all the booths are in use and other eligible electors are waiting to occupy them. No eligible elector whose name has been entered on the pollbook shall be allowed to reenter the immediate voting area during the election, except an election judge.

**1-7-116. Coordinated elections.** (1) If more than one political subdivision holds an election on the same day in November and the eligible electors for each such election are the same or the boundaries overlap, the county clerk and recorder shall be the coordinated election official and shall conduct the elections on behalf of all political subdivisions that are not utilizing the mail ballot procedure set forth in sections 1-7.5-101 to 1-7.5-112. As used in this subsection (1), "political subdivision" shall include the state, counties, municipalities, school districts, and special districts formed pursuant to title 32, C.R.S.

(2) The political subdivisions for which the county clerk and recorder will conduct the coordinated election shall enter into an agreement with the county clerk and recorder for the county or counties in which the political subdivision is located concerning the conduct of the coordinated election.

The agreement shall be signed no later than seventy days prior to the scheduled election. The agreement shall include but not be limited to the following:

(a) Allocation of the responsibilities between the county clerk and recorder and the political subdivisions for the preparation and conduct of the coordinated election; and

(b) Provision for a reasonable sharing of the actual cost of the coordinated election among the county and the political subdivisions. For such purpose, political subdivisions are not responsible for sharing any portion of the usual costs of maintaining the office of the county clerk and recorder, including but not limited to overhead costs and personal services costs of permanent employees, except for such costs that are shown to be directly attributable to conducting coordinated elections on behalf of political subdivisions. Notwithstanding any other provision of this section, the state's share of the actual costs of the coordinated election shall be governed by the provisions of section 1-5-505.5. Where the state's reimbursement to a particular county for the costs of conducting a coordinated election pursuant to section 1-5-505.5 is less than the costs of conducting a coordinated election for which the county is entitled to reimbursement by means of a cost-sharing agreement entered into pursuant to the provisions of this subsection (2), such differential shall be assumed by the county. Where the state's reimbursement to a particular county for the costs of conducting a coordinated election pursuant to section 1-5-505.5 is greater than the costs of conducting a coordinated election for which the county is entitled to reimbursement by means of a cost-sharing agreement entered into pursuant to the provisions of this subsection (2), the county shall be entitled to retain such differential, with no obligation to return any portion of such amount to the state.

(3) Notwithstanding the provision for independent mail ballot elections in subsection (1) of this section, the ballot issue notice shall be prepared and mailed in substantial compliance with part 9 of this article, and the preparation and mailing thereof shall be made pursuant to an agreement as provided in subsection (2) of this section.

(4) (Deleted by amendment, L. 94, p. 1163, § 36, effective July 1, 1994.)

(5) If, by one hundred days before the election, a political subdivision has taken formal action to participate in a general election or other election that will be coordinated by the county clerk and recorder, the political subdivision shall notify the county clerk and recorder in writing.

#### **1-7-117. Joint elections. (Repealed)**

### **PART 3 PAPER BALLOTS**

**1-7-301. Judges open ballot box first.** Immediately before proclamation is made of the opening of the polls, the election judges shall open the ballot box in the presence of those assembled and shall turn it upside down so as to empty it of anything that may be in it and then shall lock it securely. No ballot box shall be reopened until the time for counting the ballots therein.

**1-7-302. Electors given only one ballot.** Election judges shall give to each eligible elector a single ballot, which shall be separated from the stub by tearing or cutting along the perforated or dotted line. The election judge having charge of the ballots shall endorse his or her initials on the duplicate stub. Another election judge shall enter the date and the number of the ballot on the registration record of the eligible elector before delivering the ballot to the eligible elector. The election judge having charge of the pollbook shall write the name of the eligible elector and the number of the ballot on the pollbook.

**1-7-303. Spoiled ballots.** No person shall remove any ballot from the polling place before the close of the polls. Any eligible elector who spoils a ballot may obtain others, one at a time, not exceeding three in all, upon returning each spoiled ballot. The spoiled ballots thus returned shall be immediately canceled and shall be preserved and returned to the designated election official, as provided in section 1-7-701.

**1-7-304. Manner of voting.** (1) Each eligible elector, upon receiving a ballot, shall immediately proceed unaccompanied to one of the voting booths provided. To cast a vote, the eligible elector shall clearly mark or stamp in the appropriate square or place a cross mark (X) opposite the name of the candidate or the names of the joint candidates of the elector's choice for each office to be filled. In the case of a ballot issue, the elector shall clearly mark or stamp in the appropriate square or place a cross mark (X) opposite the answer which the elector desires to give. Before leaving the voting booth, the eligible elector shall fold the ballot without displaying the marks thereon, in the same way it was folded when received by the elector, so that the contents of the ballot are concealed and the stub can be removed without exposing any of the contents of the ballot, and shall keep the ballot folded until it is deposited in the ballot box.

(2) Each eligible elector who has completed the ballot and is ready to vote shall then leave the voting booth and approach the election judges having

charge of the ballot box. The elector shall give his or her name to one of the election judges, who shall clearly and audibly announce the name in a loud and distinct tone of voice. The elector's ballot shall be handed to the election judge in charge of the ballot box, who shall announce the name of the eligible elector and the number upon the duplicate stub of the ballot, which number shall correspond with the stub number previously placed on the registration list. If the stub number of the ballot corresponds and is identified by the initials that the issuing election judge placed thereupon, the election judge shall then remove the duplicate stub from the ballot. The ballot shall then be returned by the election judge to the elector, who shall, in full view of the election judges, deposit it in the ballot box, with the official endorsement on the ballot uppermost.

**1-7-305. Counting by counting judges.** (1) In precincts having counting judges, the receiving judges, at 8 a.m., or as soon thereafter as the counting judges request the ballot box, shall deliver to the counting judges the ballot box containing all ballots that have been cast up to that time, and the receiving judges shall then proceed to use the other ballot box furnished for voting. The receiving judges shall open, empty, and lock the alternate ballot box in the manner prescribed in section 1-7-301.

(2) When the counting judges have counted the votes in a ballot box, they shall return the empty ballot box to the receiving judges and exchange it for the box containing ballots cast since taking possession of the first ballot box. The judges shall continue to exchange ballot boxes in the same manner during the day until the polls are closed and shall continue counting until all ballots have been counted.

(3) When an exchange of ballot boxes is made as described in subsection (2) of this section, the receiving judges shall sign and furnish to the counting judges a statement showing the number of ballots that are to be found in each ballot box as indicated by the pollbooks. The counting judges shall then count ballots in the manner prescribed in section 1-7-307.

(4) The governing body may provide a separate room or building for the counting judges but, when ballot boxes are moved from one room or building to another, they shall be under the constant observation of at least one of the counting judges.

**1-7-306. Counting by receiving judges.** In precincts which do not have counting judges, as soon as the polls at any election have closed, the receiving judges shall immediately open the ballot box and proceed to count the ballots in the manner prescribed in section 1-7-307. The receiving judges shall not

adjourn until the counting is finished.

**1-7-307. Method of counting paper ballots.** (1) The election judges shall first count the number of ballots in the box. If the ballots are found to exceed the number of names entered on each of the pollbooks, the election judges shall then examine the official endorsements. If, in the unanimous opinion of the judges, any of the ballots in excess of the number on the pollbooks are deemed not to bear the proper official endorsement, they shall be put into a separate pile and into a separate record, and a return of the votes in those ballots shall be made under the heading "excess ballots". When the ballots and the pollbooks agree, the judges shall proceed to count the votes.

(2) Each ballot shall be read and counted separately. Every name and all names of joint candidates separately marked as voted for on the ballot shall be read and an entry made on each of two accounting forms before any other ballot is counted. The entire number of ballots, excepting "excess ballots", shall be read, counted, and placed on the accounting forms in like manner. When all of the ballots, except "excess ballots", have been counted, the election judges shall post the votes from the accounting forms.

(3) When all the votes have been read and counted, the ballots shall be returned to the ballot box, the opening shall be carefully sealed, and the election judges shall place their initials on the seal. The cover shall then be locked and the ballot box delivered to the designated election official, as provided in section 1-7-701.

(4) All persons, except election judges and watchers, shall be excluded from the place where the ballot counting is being held until the count has been completed.

**1-7-308. Judges to keep accounting forms.** As the election judges open and read the ballots, other election judges shall carefully enter the votes each of the candidates, each pair of joint candidates, and each ballot issue has received on the accounting forms furnished by the designated election official for that purpose. The names of the candidates and the names of each pair of joint candidates shall be placed on the accounting forms in the order in which they appear on the official ballots.

**1-7-309. Determination of improperly marked ballots.** (1) Votes cast for an office to be filled or a ballot issue to be decided shall not be counted if an elector marks more names than there are persons to be elected to an office or if for any reason it is impossible to determine the elector's choice of candidate or vote concerning the ballot issue.



(2) A defective or an incomplete cross mark on any ballot in a proper place shall be counted if no other cross mark appears on the ballot indicating an intention to vote for some other candidate or ballot issue.

(3) No ballot shall be counted unless it has the official endorsement required by section 1-7-302.

(4) Ballots not counted because of the election judges' inability to determine the elector's intent for all candidates and ballot issues shall be marked "defective" on the back, banded together and separated from the other ballots, returned to the ballot box, and preserved by the designated election official pursuant to section 1-7-801.

(5) When the election judges in any precinct discover in the counting of votes that the name of any write-in candidate voted for is misspelled or omitted in part, the vote for that candidate shall be counted if the writing meets the requirements of section 1-7-114 (1).

#### **PART 4 VOTING MACHINES**

**1-7-401. Judges to inspect machines.** In each precinct using voting machines, the election judges shall meet at the polling place at least forty-five minutes before the time set for the opening of the polls at each election. Before the polls are open for election, each judge shall carefully examine each machine used in the precinct to ensure that no vote has yet been cast and that every counter, except the protective counter, registers zero.

**1-7-402. Sample ballots - ballot labels.** (1) The designated election official shall provide each election precinct in which voting machines are to be used with two sample ballots, which shall be arranged in the form of a diagram showing the front of the voting machine as it will appear after the official ballot labels are arranged thereon for voting on election day. The sample ballots may be either in full or reduced size and shall be delivered and submitted for public inspection in the same manner as provided by law for sample ballots used in nonmachine voting.

(2) The designated election official shall also prepare the official ballot for each voting machine and shall place the official ballot on each voting machine to be used in precinct polling places under the election official's supervision and shall deliver the required number of voting machines to each election precinct no later than the day before the polls open.

**1-7-403. Instruction to electors.** In case any elector, after entering the voting machine, asks for further instructions concerning the manner of voting, an election judge shall give instructions to the elector.

No election judge or other election official or person assisting an elector shall enter the voting machine, except as provided in sections 1-7-111 and 1-7-112. After receiving instructions, the elector shall vote as if unassisted.

**1-7-404. Judge to watch voting machine.** No person shall deface or damage any voting machine or the ballot thereon. The election judges shall designate at least one election judge to be stationed beside the entrance to the voting machine during the entire period of the election to see that it is properly closed after each voter has entered. At such intervals as may be deemed necessary, the election judge shall also examine the face of the machine to ascertain whether it has been defaced or damaged, to detect any wrongdoing, and to repair any damage.

**1-7-405. Seal on voting machine.** The designated election official shall supply each election precinct with a seal for each voting machine to be used in the precinct for the purpose of sealing the machine after the polls are closed. The designated election official shall also provide an envelope for the return of the keys to each voting machine along with the election returns.

**1-7-406. Close of polls and count - seals.** As soon as the polls are closed, the election judges shall immediately lock and seal each voting machine against further voting, and it shall so remain for a period of thirty days unless otherwise ordered by the court and except as provided in section 1-7-407. Immediately after each machine is locked and sealed, the election judges shall open the counting compartment and proceed to count the votes. After the total vote for each candidate and ballot issue has been ascertained, the election judges shall record on a certificate the number of votes cast, in numerical figures only, and return it in the manner prescribed by section 1-7-701.

**1-7-407. Close of polls - primary.** In the event no election contest is filed by any candidate in a primary election within the time prescribed by section 1-11-203, the county clerk and recorder may unlock and break the seals of voting machines at any time after the fifteenth day following the date of the primary election.

**1-7-408. Judges to keep accounting forms.** As some election judges open and read the ballots, other election judges, utilizing the accounting forms prescribed by the secretary of state and furnished by the designated election official, shall carefully record the votes cast for each of the candidates, for each pair of joint candidates, and for each ballot issue.

## **PART 5 ELECTRONIC VOTING EQUIPMENT**

**1-7-501. Judges open ballot box first.** Immediately before proclamation is made of the opening of the polls, the election judges shall open the ballot box in the presence of those assembled and shall turn it upside down so as to empty it of anything that may be in it and then shall lock it securely. No ballot box shall be reopened until the time for counting the ballots or ballot cards therein.

**1-7-502. Elector given only one ballot or ballot card.** An election judge shall give to each eligible elector only one ballot or ballot card, which shall be removed from the package by tearing it along the perforated line below the stub. The election judge having charge of the pollbook shall write the name of the eligible elector and the number of the ballot or ballot card upon the pollbook.

**1-7-503. Manner of voting.** (1) Each eligible elector, upon receiving a ballot, shall immediately proceed unaccompanied to one of the voting booths provided. To cast a vote, the eligible elector shall clearly mark or stamp in the appropriate square or place a cross mark (X) opposite the name of the candidate or the names of the joint candidates of the elector's choice for each office to be filled. In the case of a ballot issue, the elector shall clearly mark or stamp in the appropriate square or place a cross mark (X) opposite the answer which the elector desires to give. Before leaving the voting booth, the eligible elector, without displaying the marks thereon, shall place the ballot in the privacy envelope so that the contents of the ballot or ballot card are concealed and shall place the envelope and the ballot or ballot card in the ballot box.

(2) Each eligible elector who has prepared the ballot and is ready to vote shall then leave the voting booth and approach the election judges having charge of the ballot box. The eligible elector shall give his or her name to one of the election judges. The elector shall, in full view of the election judges, deposit the ballot or ballot card in the ballot box, with the official endorsement on the ballot or ballot card facing upward.

(3) In precincts which use voting equipment in which voting is by a method other than a ballot, each voter shall be listed by name in the pollbook and shall be given an entry card to the electronic voting device.

**1-7-504. Spoiled ballots or ballot card.** In precincts in which voting is on a ballot or ballot card, no person shall remove any ballot or ballot card from the polling place before the close of the polls. Any eligible

elector who spoils a ballot or ballot card may successively obtain others, one at a time, not exceeding three in all, upon returning each spoiled ballot or ballot card. The spoiled ballots or ballot cards thus returned shall be immediately canceled and shall be preserved and returned to the designated election official, as provided in section 1-7-701.

**1-7-505. Close of polls - count and seals in electronic voting.** (1) After the polls have been closed, the election judges shall secure the vote recorders or the voting devices, or both, against further use.

(2) In precincts in which voting is on a ballot or ballot card, election judges shall prepare a return in duplicate showing the number of eligible electors, as indicated by the pollbook, who have voted in the precinct, the number of official ballots or ballot cards received, and the number of spoiled and unused ballots or ballot cards returned. The original copy of the return shall be deposited in the metal or durable plastic transfer box, along with all voted and spoiled ballots. The transfer box shall then be sealed in such a way as to prevent tampering with the box or its contents. The designated election official shall provide a numbered seal. The duplicate copy of the return shall be mailed at the nearest post office or post-office box to the designated election official by an election judge other than the one who delivers the transfer box to the designated counting center. For partisan elections, two election judges of different political affiliations, as provided in section 1-6-109.5, shall deliver the sealed transfer box to the counting center designated by the county clerk and recorder.

(3) In precincts in which electronic voting is by a method other than a ballot or ballot card, election judges shall, after securing the voting devices, prepare the paper tape containing the votes.

**1-7-506. Electronic vote-counting - test.** (Repealed)

**1-7-506.5. Testing of voting systems and tabulating equipment.** (Repealed)

**1-7-507. Electronic vote-counting - procedure.** (1) All proceedings at the counting centers shall be under the direction of the designated election official and the representatives of the political parties, if a partisan election, or watchers, if a nonpartisan election. No persons, except those authorized for the purpose, shall touch any ballot, ballot card, "prom" or other electronic device, or return.

(2) All persons who are engaged in the processing and counting of the ballots or recorded

precinct votes shall be deputized in writing and take an oath that they will faithfully perform their assigned duties.

(3) The return printed by the electronic vote-tabulating equipment, to which have been added write-in votes, shall, when certified by the designated election official, constitute the official return of each precinct. The designated election official may, from time to time, release unofficial returns. Upon completion of the count, the official returns shall be open to the public.

(4) Absentee ballots shall be counted at the counting centers in the same manner as precinct ballots.

(5) Write-in ballots may be counted in their precincts by the precinct election judges or at the counting centers.

(6) If for any reason it becomes impracticable to count all or a part of the ballots with electronic vote-tabulating equipment, the designated election official may direct that they be counted manually, following as far as practicable the provisions governing the counting of paper ballots as provided in 1-7-307.

(7) The receiving, opening, and preservation of the transfer boxes and their contents shall be the responsibility of the designated election official, who shall provide adequate personnel and facilities to assure accurate and complete election results. Any indication of tampering with the ballots, ballot card, or other fraudulent action shall be immediately reported to the district attorney, who shall immediately investigate the action and report the findings in writing within ten days to the designated election official and shall prosecute to the full extent of the law any person or persons responsible for the fraudulent action. The secretary of state shall issue such directives as may be necessary to implement or clarify the procedures outlined for the conduct of elections when punch card electronic voting systems are used.

Editor's note: This version of subsection (7) is effective until January 1, 2006.

(7) The receiving, opening, and preservation of the transfer boxes and their contents shall be the responsibility of the designated election official, who shall provide adequate personnel and facilities to assure accurate and complete election results. Any indication of tampering with the ballots, ballot card, or other fraudulent action shall be immediately reported to the district attorney, who shall immediately investigate the action and report the findings in writing within ten days to the designated election official and shall prosecute to the full extent of the law any person or persons responsible for the fraudulent action.

Editor's note: This version of subsection (7) is

effective January 1, 2006.

(8) Precincts using punch card electronic voting systems shall not be required to post the abstract of the count of votes at the precinct after the closing of the polls.

Editor's note: This version of subsection (8) is effective until January 1, 2006.

(8) Repealed. / (Deleted by amendment, L. 2004, p. 1359, § 21, effective January 1, 2006.)

Editor's note: This version of subsection (8) is effective January 1, 2006.

**1-7-508. Determination of improperly marked ballots.** (1) If any ballot is damaged or defective so that it cannot properly be counted by the electronic vote-counting equipment, a true duplicate copy shall be made of the damaged ballot in the presence of two witnesses. The duplicate ballot shall be substituted for the damaged ballot. Every duplicate ballot shall be clearly labeled as such and shall bear a serial number which shall be recorded on the damaged ballot.

(2) Votes cast for an office to be filled or a ballot issue to be decided shall not be counted if a voter marks or punches more names than there are persons to be elected to an office or if for any reason it is impossible to determine the elector's choice of candidate or vote concerning the ballot issue. A defective or an incomplete mark or punch on any ballot in a proper place shall be counted if no other mark or punch is on the ballot indicating an intention to vote for some other candidate or ballot issue.

Editor's note: This version of subsection (2) is effective until January 1, 2006.

(2) Votes cast for an office to be filled or a ballot question or ballot issue to be decided shall not be counted if a voter marks more names than there are persons to be elected to an office or if for any reason it is impossible to determine the elector's choice of candidate or vote concerning the ballot question or ballot issue. A defective or an incomplete mark on any ballot in a proper place shall be counted if no other mark is on the ballot indicating an intention to vote for some other candidate or ballot question or ballot issue.

Editor's note: This version of subsection (2) is effective January 1, 2006.

(3) No ballot shall be counted unless it has the official endorsement required by section 1-7-502.

(4) Ballots not counted because of the election judges' inability to determine the elector's intent for all candidates and ballot issues shall be marked "defective" on the back, banded together, separated from the other ballots, and preserved by the designated election official pursuant to section 1-7-801.

**1-7-509. Electronic and electromechanical vote**

**counting - testing of equipment required.** (1) (a) An electronic or electromechanical voting system shall be tested at the conclusion of maintenance and testing. The tests shall be sufficient to determine that the voting system is properly programmed, the election is correctly defined on the voting system, and all of the voting system's input, output, and communication devices are working properly.

(b) The designated election official shall conduct at least three tests on all electronic and electromagnetic voting equipment, including a hardware test, a public logic and accuracy test conducted in accordance with subsection (2) of this section, and a postelection test or audit conducted in accordance with rules promulgated by the secretary of state. Each type of ballot, including absentee, early voting, provisional, precinct, and audio ballots, shall be tested in accordance with rules promulgated by the secretary of state. The tests shall ensure that the equipment will correctly count the votes cast for all offices and on all ballot questions and ballot issues and that the voting system will accurately count ballots of all types.

(c) The designated election official shall select a testing board comprising at least two persons, one from each major political party, from the list provided by the major political parties pursuant to section 1-6-102.

(2) (a) A public test of voting equipment shall be conducted prior to the commencement of voting in accordance with this section by processing a preaudited group of ballots produced so as to record a predetermined number of valid votes for each candidate and on each ballot question or ballot issue. The test shall ensure that the system accurately records votes when the elector has the option of voting for more than one candidate in a race. The test shall ensure that the voting system properly rejects and does not count overvotes and undervotes.

(b) The public test shall be open to representatives of the political parties, the press, and the public, subject to the rules promulgated by the secretary of state pursuant to subsection (6) of this section. Each major political party, minor political party, ballot issue committee that has an issue on the ballot, and coordinating entity may designate one person, who shall be allowed to witness all public tests and the counting of pretest votes. If an observer or designee hinders or disturbs the test process, the designated election official may remove the person from the test area. An observer or designee who has been removed from a public test may be barred from future tests. The absence of observers or designees shall not delay or stop the public test.

(c) The testing board shall convene and designate at least one member to represent the board during the testing, sign the necessary reports, and report to the board. The programs and ballots used for testing shall be attested to and sealed by the board and retained in the custody of the designated election official. The absence of a member of the testing board shall not delay or stop the test.

(d) Upon completion of the testing conducted pursuant to this section, the testing board or its representative and the representatives of the political parties, ballot issue committees, and coordinating entities who attended the test may witness the resetting of each device that passed the test to a preelection state of readiness and the sealing of each such device in order to secure its state of readiness.

(e) The testing board or its representative shall sign a written statement indicating the devices tested, the results of the testing, the protective counter numbers of each device, if applicable, the number of the seal attached to each device upon completion of the testing, any problems reported to the designated election official as a result of the testing, and whether each device tested is satisfactory or unsatisfactory.

(3) Notice of the fact that the public test will take place shall be posted in the designated public place for posting notices in the county for at least seven days before the public test. The notice shall indicate the general time frame during which the test may take place and the manner in which members of the public may obtain specific information about the time and place of the test. Nothing in this subsection (3) shall preclude the use of additional methods of providing information about the public test to members of the public.

(4) (a) If any tested device is found to have an error in tabulation, it shall be deemed unsatisfactory. For each device deemed unsatisfactory, the testing board shall attempt to determine the cause of the error, attempt to identify and test other devices that could reasonably be expected to have the same error, and test a number of additional devices sufficient to determine that all other devices are satisfactory. The cause of any error detected shall be corrected, and an errorless count shall be made before the voting equipment is approved. The test shall be repeated and errorless results achieved before official ballots are counted.

(b) If an error is detected in the operation or output of an electronic voting device, including an error in spelling or in the order of candidates on a ballot, the problem shall be reported to the testing board and the designated election official. The designated election official shall correct the error.

(c) A voting device deemed unsatisfactory

shall be recoded, repaired, or replaced and shall be made available for retesting unless a sufficient number of tested backup devices is available to replace the unsatisfactory device. The backup device may not be used in the election unless the testing board or its representative determines that the device is satisfactory. The designated election official shall announce at the conclusion of the first testing the date, place, and time that an unsatisfactory device will be retested, or, at the option of the testing board, the designated election official shall notify by telephone each person who was present at the first testing of the date, place, and time of the retesting.

(5) The designated election official shall keep records of all previous testing of electronic and electromechanical tabulation devices used in any election. Such records shall be available for inspection and reference during public testing by any person in attendance. The need of the testing board for access to such records during the testing shall take precedence over the need of other attendees for access so that the work of the testing board will not be hindered. Records of testing shall include, for each device, the name of the person who tested the device and the date, place, time, and results of each test. Records of testing shall be retained as part of the official records of the election in which the device is used.

(6) The secretary of state shall promulgate rules in accordance with article 4 of title 24, C.R.S., prescribing the manner of performing the logic and accuracy testing required by this section.

**1-7-510. Election software code - escrow - definitions.** (1) As used in this section, unless the context otherwise requires, "election setup records" means the electronic records generated by election tabulation software during election setup to define ballots, tabulation instructions, and other functions related to the election.

(2) At the conclusion of programming and after it has been determined that a voting system is in proper working order and ready for voting, the designated election official shall deposit a copy of the election setup records for a county, statewide, or congressional vacancy election with the secretary of state no later than 5:00 p.m. on the seventh day before the election.

(3) If the election setup records are modified or altered after they are submitted to the secretary of state, the designated election official shall immediately report the change to the secretary of state and deposit the modified election setup records with the secretary of state no later than noon on the day of the election.

(4) The secretary of state shall retain

election setup records for six months, after which the secretary of state shall return the election setup records to the designated election official. The designated election official shall retain the election setup records for the period of time for which the designated election official is required to retain official election records.

(5) Election setup records deposited with the secretary of state shall not be used for any purpose, except as directed by the secretary of state or ordered by a court. The tape, diskette, cartridge, or other magnetic or electronic storage medium containing election setup records deposited with the secretary of state shall be kept in a secure location when not being used for an official purpose in accordance with this subsection (5).

(6) The secretary of state shall promulgate rules in accordance with article 4 of title 24, C.R.S., to implement this section.

(7) Notwithstanding any other provision of law, election setup records deposited with the secretary of state pursuant to this section shall not be public records for purposes of article 72 of title 24, C.R.S.

**1-7-511. Election software - voting equipment providers - escrow - definitions.** (1) When a voting system provider submits an electronic or electromechanical voting system for certification pursuant to part 6 of article 5 of this title, the voting system provider shall place in escrow with the secretary of state or an independent escrow agent approved by the secretary of state one copy of the election software being certified and supporting documentation. The voting system provider shall place in escrow any subsequent changes to the escrowed election software or supporting documentation.

(2) An officer of the voting system provider with legal authority to bind the voting system provider shall sign a sworn affidavit that the election software in escrow is the same as the election software being used in its voting systems in this state. The officer shall ensure that the statement is true on a continuing basis.

(3) As an additional requirement for certification, the voting system provider shall deposit one copy of the election software with the national software reference library at the national institute of standards and technology.

(4) The secretary of state shall promulgate rules in accordance with article 4 of title 24, C.R.S., prescribing the manner and procedures that voting system providers shall follow to comply with this section.

(5) As used in this section, unless the context otherwise requires, "election software" means

the software to be installed or residing on election equipment firmware or on election management computers that controls election setup, vote recording, vote tabulation, and reporting.

(6) Notwithstanding any other provision of law, election software and supporting documentation placed in escrow in accordance with this section shall not be public records for purposes of article 72 of title 24, C.R.S.

**1-7-512. Voting system providers - duties.** (1) A voting system provider under contract to provide a voting system to a political subdivision in this state shall:

(a) Notify the secretary of state of the installation of any hardware, firmware, or software prior to the installation or of any change in the election software or the voting system;

(b) Place in escrow with the secretary of state or an independent escrow agent approved by the secretary of state, immediately after the installation of election software, one copy of the state certified election software that was installed in each political subdivision, along with supporting documentation;

(c) Place in escrow with the secretary of state any subsequent changes to the escrowed election software or supporting documentation;

(d) Provide to the secretary of state a sworn statement by an officer of the voting system provider with legal authority to bind the voting system provider attesting that the election software in escrow is the same as the election software certified for use in its voting systems in this state, and ensure that the statement is true on a continuing basis;

(e) Notify the secretary of state and the designated election official of any political subdivision using its voting system of any defect in the same system known to occur anywhere; and

(f) Notify the secretary of state and the designated election official of any political subdivision using its voting system of any change in the election software or the voting system.

(2) The secretary of state shall promulgate rules in accordance with article 4 of title 24, C.R.S., establishing procedures for voting system providers to comply with this section.

(3) As used in this section, unless the context otherwise requires, "election software" means the software to be installed or residing on election equipment firmware or on election management computers that controls election setup, vote recording, vote tabulation, and reporting.

**1-7-513. Voting equipment - records.** (1) The designated election official shall maintain separate, detailed records for each component of a voting

system used in an election. Such records shall include, but not be limited to, the manufacturer, make, model, serial number, hardware, firmware, software version or release number, date of acquisition, description of services, repairs, maintenance, upkeep, and version upgrades, and date of performance of such services.

(2) The secretary of state shall promulgate rules in accordance with article 4 of title 24, C.R.S., prescribing the manner of maintenance of records required by this section.

**1-7-514. Random audit.** (1) (a) (I) Following each primary, general, coordinated, or congressional district vacancy election, the secretary of state shall publicly initiate a manual random audit to be conducted by each county and shall randomly select not less than one percent of the voting devices used in each county; except that, where a central count voting device is in use in the county, the rules promulgated by the secretary pursuant to subsection (5) of this section shall require an audit of a specified percentage of ballots counted within the county.

(II) For an election taking place in a county prior to the date the county has satisfied the requirements of section 1-5-802, the audit shall be for the purpose of comparing the manual tallies of the ballots counted by each voting device selected for each such audit with the corresponding tallies recorded directly by each such device.

(III) For an election taking place in a county on or after the date the county has satisfied the requirements of section 1-5-802, the audit shall be conducted for the purpose of comparing the manual tallies of the voter-verified paper records produced or employed by each voting device selected for such audit with the corresponding ballot tallies recorded directly by each such device.

(b) To the extent practicable, no voting device that is used for the random audit required by paragraph (a) of this subsection (1) shall be used for conducting the testing of voting devices for recount purposes required by section 1-10.5-102 (3) (a).

(2) (a) Upon completion of the audit required by subsection (1) of this section, if there is any discrepancy between the manual tallies, as specified in accordance with the requirements of subparagraph (II) or (III) of paragraph (a) of subsection (1) of this section, as applicable, of the voting device selected for the audit, and the corresponding tallies recorded by such devices, and the discrepancy is not able to be accounted for by voter error, the county clerk and recorder, in consultation with the canvass board of the county established pursuant to section 1-10-101, shall investigate the discrepancy and shall take such remedial action as necessary in accordance with its powers under this title.

(b) Upon receiving any written complaint from a registered elector from within the county containing credible evidence concerning a problem with a voting device, the canvass board along with the county clerk and recorder shall investigate the complaint and take such remedial action as necessary in accordance with its powers under this title.

(c) The county clerk and recorder shall promptly report to the secretary of state the results of any completed audit or investigation conducted pursuant to paragraph (a) or (b) of this subsection (2).

(3) The secretary of state shall post the results of any completed audit or investigation conducted pursuant to the requirements of subsection (2) of this section on the official website of the department of state not later than twenty-four hours after receiving the results of the completed audit or investigation. The clerk and recorder of the affected county may timely post the results of the completed audit or investigation on the official website of the county. The secretary shall publish once in a newspaper of general circulation throughout the state notification to the public that the results have been posted on the department's website.

(4) Any audit conducted in accordance with the requirements of this section shall be observed by at least two members of the canvass board of the county.

(5) The secretary of state shall promulgate such rules, in accordance with article 4 of title 24, C.R.S., as may be necessary to administer and enforce any requirement of this section, including any rules necessary to provide guidance to the counties in conducting any audit required by this section. The rules shall account for:

(a) The number of ballots cast in the county;

(b) An audit of each type of voting device utilized by the county; and

(c) The confidentiality of the ballots cast by the electors.

## **PART 6 ELECTION RETURNS**

**1-7-601. Judges' certificate and statement.** (1) As soon as all the votes have been read and counted, either at the precincts or at the electronic balloting counting centers, the election judges shall make a certificate for each precinct, stating the name of each candidate, the office for which that candidate received votes, and stating the number of votes each candidate received. The number shall be expressed in words at full length and in numerical figures. The entry shall be made, as nearly as circumstances will

permit, in the following form:

"At an election held ....., in precinct ....., in the county of ..... and state of Colorado, on the ..... day of ..... in the year ....., the following named candidates received the number of votes annexed to their respective names for the following described offices: Total number of ballots or votes cast was ..... A.B. and E.F. had seventy-two (72) votes for governor and lieutenant governor; C.D. and G.H. had sixty-nine (69) votes for governor and lieutenant governor; J.K. had sixty-eight (68) votes for representative in congress; L.M. had seventy (70) votes for representative in congress; N.O. had seventy-two (72) votes for state representative; P.Q. had seventy-one (71) votes for state representative; R.S. had eighty-four (84) votes for sheriff; T.W. had sixty (60) votes for sheriff; (and the same manner for any other persons voted for).

Certified by us:

A.B. )

C.D. )

E.F. )

Election Judges"

(2) In addition, the election judges shall make a written statement showing the number of ballots voted, making a separate statement of the number of unofficial and substitute ballots voted, the number of ballots delivered to electors, the number of spoiled ballots, the number of ballots not delivered to electors, and the number of ballots returned, identifying and specifying the same. All unused ballots, spoiled ballots, and stubs of ballots voted shall be returned with the statement.

(3) Any judges' certificates and statements may be combined into one document if so directed by the designated election official.

**1-7-602. Judges to post returns.** At any election at a polling place where voting is by paper ballot, voting machine, or electronic or electromechanical voting system, the election judges shall make an abstract of the count of votes, which abstract shall contain the names of the offices, names of the candidates, ballot titles, and submission clauses of all initiated, referred, or other ballot issues voted upon and the number of votes counted for or against each candidate or ballot issue. The abstract shall be posted in a conspicuous place that can be seen from the outside of the polling place immediately upon completion of the counting. The abstract may be removed at any time after forty-eight hours following the election. Suitable blanks for the abstract required by this section shall be prepared, printed, and furnished to all election judges at the same time and in the same manner as other election supplies.

**1-7-603. Preparation of election returns.** If any designated election official wishes to count the votes cast at a location or by a method other than authorized by this code, the designated election official may present a plan, for approval by the secretary of state, that delineates the process for assuring accuracy and confidentiality of counting. The plan shall be submitted to the secretary of state and approved no later than forty-five days before the election at which the plan is to be implemented.

## **PART 7 DELIVERY OF ELECTION RETURNS**

**1-7-701. Delivery of election returns, ballot boxes, and other election papers.** When all the votes have been read and counted, the election judges selected in accordance with section 1-6-109.5 shall deliver to the designated election official the certificate and statement required by section 1-7-601, ballot boxes and all keys to the boxes, paper tapes, "proms" or other electronic devices, the registration book, pollbooks, accounting forms, spoiled ballots, unused ballots, ballot stubs, oaths, affidavits, and other election papers and supplies. The delivery shall be made at once and with all convenient speed, and informality in the delivery shall not invalidate the vote of any precinct when delivery has been made previous to the completion of the official abstract of the votes by the board of canvassers. The designated election official shall give a receipt for all items delivered.

## **PART 8 PRESERVATION OF BALLOTS AND ELECTION RECORDS**

**1-7-801. Ballots preserved.** The designated election official shall remove the ballots from the ballot box after the time period for election contests has passed and preserve the ballots as election records pursuant to section 1-7-802.

**1-7-802. Preservation of election records.** The designated election official shall be responsible for the preservation of any election records for a period of at least twenty-five months after the election or until time has expired for which the record would be needed in any contest proceedings, whichever is later. Unvoted ballots may be destroyed after the time for a challenge to the election has passed. If a federal candidate was on the ballot, the voted ballots and any other required election materials shall be kept for at least twenty-five months after the election.

## **PART 9 BALLOT ISSUE NOTICES**

**1-7-901. Receipt of comments concerning ballot issues.** (1) Each political subdivision shall accept written comments concerning ballot issues in accordance with this section.

(2) All comments filed in writing will be received and kept on file with the designated election official for the political subdivision submitting to its eligible electors the ballot issue to which the comments pertain. However, only those comments that are filed by persons eligible to vote in the political subdivision submitting the ballot issue to its electors must be summarized in the ballot issue notice. The filed comments shall be retained by the designated election official as election records.

(3) To be summarized in the ballot issue notice, the comments shall address a specific ballot issue and shall include a signature and an address where the signor is registered to vote and shall be filed with the designated election official for the political subdivision and not the county clerk and recorder of the county in which the political subdivision is located unless the issue is a county issue for which the county clerk and recorder is the designated election official.

(4) Since section 20 (3) (b) (v) of article X of the state constitution requires that comments pertaining to a ballot issue be filed by forty-five days before the election and since such day is always a Saturday, all comments shall be filed by the end of the business day on the Friday before the forty-fifth day before the election.

**1-7-902. Preparation of fiscal information.** A governing body submitting a referred measure, or its designee, shall be responsible for providing to its designated election official the fiscal information that must be included in the ballot issue notice. For political subdivisions, the governing body shall be the board that authorized submission of the ballot issue to the electorate.

**1-7-903. Preparation of written comments.** (1) For referred measures, the designated election official shall summarize the filed comments in favor of and in opposition to the ballot issue for the ballot issue notice.

(2) For initiated measures, the petition representatives shall be solely responsible for summarizing all comments filed in favor of the ballot issue. The designated election official shall summarize all comments filed in opposition to the ballot issue.

(3) Petition representatives required to



summarize favorable comments in favor of their petition shall submit the summary in typewritten form to the designated election official for the jurisdiction in which the petition is presented no later than forty-three days before the election. If a summary is not filed by the petition representatives within the time allowed, the designated election official shall print the following in the ballot issue notice where the summary would appear: "No summary was filed by the statutory deadline."

(4) If no comments are filed in opposition to or in support of a ballot issue, the designated election official shall not prepare any summaries and shall state substantially the following in the ballot issue notice where the summary or summaries would appear: "No comments were filed by the constitutional deadline."

(5) The provisions of this section shall not apply to a statewide ballot issue that is subject to the provisions of section 1 (7.5) of article V of the state constitution.

**1-7-904. Transmittal of notices.** Notwithstanding the provision for independent mail ballot elections in section 1-7-116 (1), the designated election official or the official's designee for a political subdivision conducting an election in November shall prepare and deliver to the county clerk and recorder for the county or counties in which the political subdivision is located no later than forty-two days before the election the full text of any required ballot issue notices.

**1-7-905. Preparation of notices.** (1) For November elections, the county clerk and recorder shall be responsible for placing the ballot issue notices received from the various political subdivisions participating in the election in the proper order in the ballot issue notice packet. As nearly as practicable, the notice shall be in the order the ballot issues will appear on the ballot. The ballot issue notice shall be followed by a certification by the county clerk and recorder that the ballot issue notices are complete as submitted by the political subdivisions. No additional information shall be included as part of the ballot issue notice except as may be required by law. A general disclaimer may precede or follow the ballot issue notice which may state: "The information contained in this notice was prepared by persons required by law to provide summaries of ballot issues and fiscal information."

(2) The designated election officials of overlapping political subdivisions conducting an election other than in November shall confer concerning the preparation of the ballot issue notice no later than forty days prior to the date of the election. The political subdivisions conducting the

election shall provide for preparation of any required ballot issue notice package by agreement in a form substantially as provided in section 1-7-116.

**1-7-905.5. Form of notice.** (1) The ballot issue notice shall begin with the words "All registered voters", regardless of whether the electors of the political subdivision must be registered electors to be eligible to vote in the election, and shall end at the conclusion of the summary of comments. Any information included pursuant to section 1-5-206, information concerning procedure for a mail ballot election, ballot, polling place, or other information included with the ballot issue notice prior to the words "All registered voters" or after the conclusion of the summary of comments shall not be deemed to be part of the ballot issue notice.

(2) Ballot issue notices are not election materials that must be provided in a language other than English.

**1-7-906. Mailing of notices.** (1) For November elections, the county clerk and recorder as coordinated election official shall mail the ballot issue notice packet to each address of one or more active registered electors who reside in the county or portions of the county in which registered voters of those districts submitting ballot issues reside.

(2) The designated election official for the various political subdivisions shall be responsible for mailing the required notice to each address of one or more active registered electors who do not reside within the county or counties where the political subdivision is located.

(3) The political subdivisions shall by agreement, in a form substantially as provided in sections 1-7-116 and 1-7-905, provide for mailing of any required ballot issue notice package for elections conducted other than in November.

**1-7-907. Applicability - cross references.** The ballot issue notice shall be prepared and mailed in substantial compliance with section 20 of article X of the state constitution, the provisions of this title, and the rules and regulations of the secretary of state.

**1-7-908. Additional notice - election to create financial obligation.** (1) (a) A district submitting a ballot issue concerning the creation of any debt or other financial obligation at an election in the district shall post notice of the following information on the district's website or, if the district does not maintain a website, at the district's chief administrative office no later than twenty days before the election:

(i) The district's ending general fund balance for the last four fiscal years and the projected ending general fund balance for the current fiscal year;

(II) A statement of the total revenues in and expenditures from the district's general fund for the last four fiscal years and the projected total revenues in and expenditures from the general fund for the current fiscal year;

(III) The amount of any debt or other financial obligation incurred by the district for each of the last four fiscal years for cash flow purposes that has a term of not more than one year and the amount of any such financial obligation projected for the current fiscal year;

(IV) A statement as to whether the district's emergency reserve required by section 20 (5) of article X of the state constitution has been fully funded by cash or investments for the current fiscal year and each of the last four fiscal years and an identification of the funds or accounts in which the reserve is currently held. If the reserve has not been fully funded, the notice shall include a statement of the reasons the reserve has not been fully funded.

(V) The location or locations at which any person may review the district's audited financial statements for the last four fiscal years, any management letters that have been made public and have been provided to the district by its auditors in connection with the preparation of its audits for the last four fiscal years, and the district's budget for the current fiscal year.

(b) If the debt or other financial obligation for which the district is seeking voter approval is to be paid from a revenue source that is accounted for in a fund other than the district's general fund, the information required by subparagraphs (I) and (II) of paragraph (a) of this subsection (1) shall also be made available for such other fund.

(c) The information required by subparagraphs (I), (II), (III), and (IV) of paragraph (a) of this subsection (1) shall be based upon audited figures. If no audited figures are available, the information shall be based upon estimated figures.

(2) The notice required by this section shall be in addition to and shall not substitute, replace, or be combined with any other notice required by law.

(3) For purposes of this section, "district" shall have the same meaning as set forth in section 20 (2) (b) of article X of the state constitution.

## **ARTICLE 7.5**

### **Mail Ballot Elections**

- 1-7.5-101. Short title.
- 1-7.5-102. Legislative declaration.
- 1-7.5-103. Definitions.
- 1-7.5-104. Mail ballot elections - optional.

- 1-7.5-105. Preelection process.
- 1-7.5-106. Secretary of state - duties and powers.
- 1-7.5-107. Procedures for conducting mail ballot election - first-time voters casting a mail ballot after having registered by mail to vote.
- 1-7.5-107.3. Verification of signatures - November coordinated elections.
- 1-7.5-107.5. Counting mail ballots.
- 1-7.5-108. Absentee mail ballots.
- 1-7.5-109. Write-in candidates.
- 1-7.5-110. Challenges.
- 1-7.5-111. Report to the general assembly.**  
(Repealed)
- 1-7.5-112. Repeal of article.** (Repealed)

**1-7.5-101. Short title.** This article shall be known and may be cited as the "Mail Ballot Election Act".

**1-7.5-102. Legislative declaration.** The general assembly hereby finds, determines, and declares that self-government by election is more legitimate and better accepted as voter participation increases. The general assembly further finds, determines, and declares that mail ballot elections are cost-efficient and have not resulted in increased fraud. By enacting this article, the general assembly hereby concludes that it is appropriate to provide for mail ballot elections under specified circumstances.

**1-7.5-103. Definitions.** As used in this article, unless the context otherwise requires:

(1) "Designated election official" means official as defined in section 1-1-104 (8).

(2) "Election" means any election under the "Uniform Election Code of 1992" or the "Colorado Municipal Election Code of 1965", article 10 of title 31, C.R.S.

(3) "Election day" means the date either established by law or determined by the governing body of the political subdivision conducting the election, to be the final day on which all ballots are determined to be due, and the date from which all other dates in this article are set.

(4) "Mail ballot election" means an election for which eligible electors may cast ballots by mail and in accordance with this article in an election that involves only nonpartisan candidates or ballot questions or ballot issues.

(5) "Mail ballot packet" means the packet of information provided by the designated election official to eligible electors in the mail ballot election. The packet includes the ballot, instructions for completing the ballot, a secrecy envelope, and a return envelope.

(6) "Political subdivision" means a governing subdivision of the state, including counties,

municipalities, school districts, and special districts.

(7) "Return envelope" means an envelope that is printed with spaces for the name and address of, and a self-affirmation to be signed by, an eligible elector voting in a mail ballot election, that contains a secrecy envelope and ballot for the elector, and that is designed to allow election officials, upon examining the signature, name, and address on the outside of the envelope, to determine whether the enclosed ballot is being submitted by an eligible elector who has not previously voted in that particular election.

(8) "Secrecy envelope" means the envelope used for a mail ballot election that contains the eligible elector's ballot for the election, and that is designed to conceal and maintain the confidentiality of the elector's vote until the counting of votes for that particular election.

**1-7.5-104. Mail ballot elections - optional.** (1) If the governing board of any political subdivision determines that an election shall be by mail ballot, the designated election official for the political subdivision shall conduct any election for the political subdivision by mail ballot under the supervision of the secretary of state and shall be subject to rules which shall be promulgated by the secretary of state.

(2) Notwithstanding the provisions of subsection (1) of this section, a mail ballot election shall not be held for:

(a) Elections or recall elections that involve partisan candidates;

(b) Elections held in conjunction with, or on the same day as, a primary or congressional vacancy election.

(3) Notwithstanding any other provision of law to the contrary concerning the type of election to be held, elections by mail ballot shall be conducted as provided in this article.

**1-7.5-105. Preelection Process** (1) The designated election official responsible for conducting an election that is to be by mail ballot pursuant to section 1-7.5-104 (1) shall notify the secretary of state no later than fifty-five days prior to the election. The notification shall include a proposed plan for conducting the mail ballot election, which may be based on the standard plan adopted by the secretary of state.

(2) The secretary of state shall approve or disapprove the written plan for conducting a mail ballot election, in accordance with section 1-7.5-106, within fifteen days after receiving the plan and shall provide a written notice to the affected political subdivision.

(3) The designated election official shall supervise the distributing, handling, counting of ballots, and the survey of returns in accordance with rules promulgated by the secretary of state as

provided in section 1-7.5-106 (2) and shall take the necessary steps to protect the confidentiality of the ballots cast and the integrity of the election.

(4) No elector information shall be delivered in the form of a sample ballot.

**1-7.5-106. Secretary of state - duties and powers.** (1) In addition to any other duties prescribed by law, the secretary of state, with advice from election officials of the several political subdivisions, shall:

(a) Prescribe the form of materials to be used in the conduct of mail ballot elections; except that all mail ballot packets shall include a ballot, instructions for completing the ballot, a secrecy envelope, and a return envelope;

(b) Establish procedures for conducting mail ballot elections; except that the procedures shall be consistent with section 1-7.5-107;

(c) Supervise the conduct of mail ballot elections by the election officials as provided in section 1-7.5-105 (3).

(2) In addition to other powers prescribed by law, the secretary of state may adopt rules governing procedures and forms necessary to implement this article and may appoint any county clerk and recorder as an agent of the secretary to carry out the duties prescribed in this article.

**1-7.5-107. Procedures for conducting mail ballot election - first-time voters casting a mail ballot after having registered by mail to vote.** (1) Official ballots shall be prepared and all other preelection procedures followed as otherwise provided by law or rules promulgated by the secretary of state; except that mail ballot packets shall be prepared in accordance with this article.

(2) (a) Except for coordinated elections conducted as a mail ballot election where the county clerk and recorder is the coordinated election official, no later than thirty days prior to election day, the county clerk and recorder shall submit to the designated election official of the political subdivision conducting the mail ballot election a full and complete preliminary list of registered electors. For special district mail ballot elections, the county clerk and recorder and county assessor of each county in which a special district is located shall certify and submit to the designated election official a list of property owners and a list of registered electors residing within the affected district.

(b) No later than twenty days prior to election day, the county clerk and recorder and county assessor required to submit a preliminary list in accordance with paragraph (a) of this subsection (2) shall submit to the appropriate authority a supplemental list of the names of eligible electors or

property owners whose names were not included on the preliminary list.

(c) All lists of registered electors and lists of property owners provided to a designated election official under this section shall include the last mailing address of each elector.

(2.5) (a) No later than twenty days before an election, the designated election official, or the coordinated election official if so provided by an intergovernmental agreement, shall provide notice by publication of a mail ballot election conducted pursuant to the provisions of this article, which notice shall state, as applicable for the particular election for which the notice is provided, the items set forth in section 1-5-205 (1) (a) to (1) (d).

(b) The notice required to be given by this subsection (2.5) shall be in lieu of the notice requirements set forth in sections 1-5-205 (1) and 31-10-501 (1), C.R.S., as applicable for the particular election for which such notice is required.

(3) (a) Not sooner than twenty-five days before an election, and no later than fifteen days before an election, the designated election official shall mail to each active registered elector, at the last mailing address appearing in the registration records and in accordance with United States postal service regulations, a mail ballot packet, which shall be marked "DO NOT FORWARD. ADDRESS CORRECTION REQUESTED", or any other similar statement that is in accordance with United States postal service regulations; except that with prior approval from the secretary of state, the packets shall be sent no later than ten days before election day.

(b) The ballot or ballot label shall contain the following warning:

"WARNING:

Any person who, by use of force or other means, unduly influences an eligible elector to vote in any particular manner or to refrain from voting, or who falsely makes, alters, forges, or counterfeits any mail ballot before or after it has been cast, or who destroys, defaces, mutilates, or tampers with a ballot is subject, upon conviction, to imprisonment, or to a fine, or both."

(b.5) (I) The return envelope shall have printed on it a self-affirmation substantially in the following form:

"I state under penalty of perjury that I am an eligible elector; that my signature, name, and address are as shown on this envelope; that I have not and will not cast any vote in this election except by the enclosed ballot; and that my ballot is enclosed in accord with the provisions of the "Uniform Election Code of 1992".

.....  
.....  
Date  
Signature of voter"

(II) The signing of the self-affirmation on the return envelope shall constitute an affirmation by the eligible elector, under penalty of perjury, that the facts stated in the self-affirmation are true. If the eligible elector is unable to sign, the eligible elector may affirm by making a mark on the self-affirmation, with or without assistance, witnessed by another person.

(c) No sooner than twenty-five days prior to election day, nor later than 7 p.m. on election day, mail ballots shall be made available at the designated election official's office, or the office designated in the mail ballot plan filed with the secretary of state, for eligible electors who are not listed or who are listed as "Inactive" on the county voter registration records or, for special district mail ballot elections, on the list of property owners or the registration list but who are authorized to vote pursuant to section 32-1-806, C.R.S., or other applicable law.

(d) (I) An eligible elector may obtain a replacement ballot if the ballot was destroyed, spoiled, lost, or for some other reason not received by the eligible elector. An eligible elector may obtain a ballot if a mail ballot packet was not sent to the elector because the eligibility of the elector could not be determined at the time the mail ballot packets were mailed. In order to obtain a ballot in such cases, the eligible elector must sign a sworn statement specifying the reason for requesting the ballot. The statement shall be presented to the designated election official no later than 7 p.m. on election day. The designated election official shall keep a record of each ballot issued in accordance with this paragraph (d) together with a list of each ballot obtained pursuant to paragraph (c) of this subsection (3).

(II) A designated election official shall not transmit a mail ballot packet under this paragraph (d) unless a sworn statement requesting the ballot is received on or before election day. A ballot may be transmitted directly to the eligible elector requesting the ballot at the designated election official's office or the office designated in the mail ballot plan filed with the secretary of state or may be mailed to the eligible elector at the address provided in the sworn statement. Ballots may be cast no later than 7 p.m. on election day.

(3.5) (a) Subject to the requirements of section 1-2-501 (2), the requirements of this subsection (3.5) shall apply to any person who has registered to vote by mail in accordance with part 5 of article 2 of this title and who:

(I) Has not previously voted in an election in Colorado; or

(II) Is reregistering to vote after moving from one county in this state to another and the election in which the person intends to vote takes place prior to the creation by the department of state of a computerized statewide voter registration list that satisfies the requirements of part 3 of article 2 of this title.

(b) Any person who matches either of the descriptions specified in subparagraph (I) or (II) of paragraph (a) of this subsection (3.5) and intends to cast his or her ballot by mail in accordance with this article shall submit with his or her mail ballot a copy of identification within the meaning of section 1-1-104 (19.5).

(c) The designated election official shall include with the mail ballot packet required by paragraph (a) of subsection (3) of this section written instructions advising an elector who matches the description specified in paragraph (a) of this subsection (3.5) of the manner in which the elector shall be in compliance with the requirements contained in paragraph (a) of this subsection (3.5).

(d) Any person who desires to cast his or her ballot by mail but does not satisfy the requirements of paragraph (c) of this subsection (3.5) may cast such ballot by mail and the ballot shall be treated as a provisional ballot in accordance with the requirements of article 8.5 of this title.

(e) The requirements of this subsection (3.5) shall be implemented by state and local election officials in a uniform and nondiscriminatory manner.

(f) Notwithstanding any other provision of law, the requirements of this subsection (3.5) shall not apply to any person who is:

(I) Entitled to vote by absentee ballot under the federal "Uniformed and Overseas Citizens Absentee Voting Act", 42 U.S.C. sec. 1973ff et seq.;

(II) Provided the right to vote otherwise than in person under section (b) (2) (B) (ii) of the federal "Voting Accessibility for the Elderly and Handicapped Act", 42 U.S.C. sec. 1973ee-1; or

(III) Entitled to vote otherwise than in person under any other federal law.

(4) (a) Upon receipt of a ballot, the eligible elector shall mark the ballot, sign and complete the self-affirmation on the return envelope, enclose identification if required by subsection (3.5) of this section, and comply with the instructions provided with the ballot.

(b) The eligible elector may return the marked ballot to the designated election official by United States mail or by depositing the ballot at the office of the official or any place designated by the official. The ballot must be returned in the return envelope. If an eligible elector returns the ballot by

mail, the elector must provide postage. The ballot shall be received at the office of the designated election official or a designated depository, which shall remain open until 7 p.m. on election day. For an election coordinated by the county clerk and recorder, the depository shall be designated by the county clerk and recorder and located in a secure place under the supervision of a municipal clerk, an election judge or a member of the clerk and recorder's staff. For an election not coordinated by the county clerk and recorder, the depository shall be designated by the designated election official and located in a secure place under the supervision of the designated election official, an election judge, or another person designated by the designated election official.

(c) and (d) Repealed.

(5) (a) Once the ballot is returned, an election judge shall first qualify the submitted ballot by comparing the information on the return envelope with the registration records to determine whether the ballot was submitted by an eligible elector who has not previously voted in the election. If the ballot so qualifies and is otherwise valid, the election judge shall indicate in the pollbook that the eligible elector cast a ballot and deposit the ballot in an official ballot box.

(b) If the return envelope received from an eligible elector described in subsection (3.5) of this section does not contain identification, the ballot shall be treated as a provisional ballot and shall be verified and counted in accordance with article 8.5 of this title.

(c) For November coordinated elections only, the signature of the eligible elector on the return envelope shall be compared with the signature of the eligible elector on file in the office of the county clerk and recorder in accordance with section 1-7.5-107.3.

(6) All deposited ballots shall be counted as provided in this article and by rules promulgated by the secretary of state. A mail ballot shall be valid and counted only if it is returned in the return envelope, the self-affirmation on the return envelope is signed and completed by the eligible elector to whom the ballot was issued, and the information on the return envelope is verified in accordance with subsection (5) of this section. Mail ballots shall be counted in the same manner provided by section 1-7-307 for counting paper ballots or section 1-7-507 for counting electronic ballots. If the election official determines that an eligible elector to whom a replacement ballot has been issued has voted more than once, the official shall not count any ballot cast by the elector. Rejected ballots shall be handled in the same manner as provided in section 1-8-310.

**1-7.5-107.3. Verification of signatures - November coordinated elections.** (1) (a) Except as provided in

paragraph (b) of this subsection (1), in every mail ballot election that is a November coordinated election held in 2005 or any subsequent year, an election judge shall compare the signature on the self-affirmation on each return envelope with the signature of the eligible elector on file in the office of the county clerk and recorder in accordance with subsection (2) of this section.

(b) For the mail ballot election that is a November coordinated election held in 2003, the election judge shall compare in accordance with paragraph (a) of this subsection (1) only those signatures that are in the county clerk and recorder's database no later than 7 p.m. on election day.

(2) (a) If, upon comparing the signature of an eligible elector on the self-affirmation on the return envelope with the signature of the eligible elector on file with the county clerk and recorder, the election judge determines that the signatures do not match, two other election judges of different political party affiliations shall simultaneously compare the signatures. If both other election judges agree that the signatures do not match, the county clerk and recorder shall, within two days after election day, send to the eligible elector at the address indicated in the registration records a letter explaining the discrepancy in signatures and a form for the eligible elector to confirm that the elector returned a ballot to the county clerk and recorder. If the county clerk and recorder receives the form within eight days after election day confirming that the elector returned a ballot to the county clerk and recorder and enclosing a copy of the elector's identification as defined in section 1-1-104 (19.5), and if the ballot is otherwise valid, the ballot shall be counted. If the eligible elector returns the form indicating that the elector did not return a ballot to the county clerk and recorder, or if the eligible elector does not return the form within eight days after election day, the self-affirmation on the return envelope shall be categorized as incorrect, the ballot shall not be counted, and the county clerk and recorder shall send copies of the eligible elector's signature on the return envelope and the signature on file with the county clerk and recorder to the district attorney for investigation.

(b) An original return envelope with an enclosed secrecy envelope containing a voted ballot that is not counted in accordance with paragraph (a) of this subsection (2) shall be stored under seal in the office of the county clerk and recorder in a secure location separate from valid return envelopes and may be removed only under the authority of the district attorney or by order of a court having jurisdiction.

(c) In the case of a disagreement among the election judges as to whether the signature of an eligible elector on the self-affirmation on the return

envelope matches the signature of the eligible elector on file with the county clerk and recorder pursuant to the procedures specified in paragraph (a) of this subsection (2), the mail ballot contained in the return envelope shall be counted in accordance with the requirements of sections 1-7.5-107 (6) and 1-7.5-107.5.

(3) If the election judge determines that the signature of an eligible elector on the self-affirmation matches the elector's signature on file with the county clerk and recorder, the election judge shall follow the procedures specified in section 1-7.5-107 (5) and (6) concerning the qualification and counting of mail ballots.

(4) (a) An election judge shall not determine that the signature of an eligible elector on the self-affirmation does not match the signature of that eligible elector on file with the county clerk and recorder solely on the basis of substitution of initials or use of a common nickname.

(b) The designated election official may provide training in the technique and standards of signature comparison to election judges who compare signatures pursuant to this section.

**1-7.5-107.5. Counting mail ballots.** The election officials at the mail ballot counting place may receive and prepare mail ballots delivered and turned over to them by the designated election official for tabulation. Counting of the mail ballots may begin ten days prior to the election and continue until counting is completed. The election official in charge of the mail ballot counting place shall take all precautions necessary to ensure the secrecy of the counting procedures, and no information concerning the count shall be released by the election officials or watchers until after 7 p.m. on election day.

**1-7.5-108. Absentee mail ballots.** Provisions for the allowance of and procedures for absentee ballots shall be determined by rules promulgated by the secretary of state.

**1-7.5-109. Write-in candidates.** Write-in candidates shall be allowed on mail ballot elections provided that the candidate has filed an affidavit of intent with the designated election official pursuant to section 1-4-1101. Ballots for write-in candidates are to be counted pursuant to section 1-7-114.

**1-7.5-110. Challenges.** Votes cast pursuant to this article may be challenged pursuant to and in accordance with law. Any mail ballot election held pursuant to this article shall not be invalidated on the grounds that an eligible elector did not receive a ballot so long as the designated election official for the political subdivision conducting the election acted in good faith in complying with the provisions of this

article or with rules promulgated by the secretary of state.

## **Article 8 Absentee and Early Voting**

### **PART 1 ABSENTEE VOTING**

- 1-8-101. Ballots and supplies for absentee voting.
- 1-8-102. When absentee eligible electors may vote.
- 1-8-103. Effect of "Uniform and Overseas Citizens Absentee Voting Act" - emergency authority of secretary of state.
- 1-8-103.5. Voting by persons residing overseas and military personnel.
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- 1-8-105. Change of registration record.
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- 1-8-107. Absentee registration record.
- 1-8-108. List of absentee ballots.
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### **PART 3 COUNTING ABSENTEE AND EARLY VOTERS' BALLOTS**

- 1-8-301. Appointment of election judges for counting absentee and early ballots.
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### **PART 1 ABSENTEE VOTING**

**1-8-101. Ballots and supplies for absentee voting.** (1) Absentee ballots, applications, affidavits, certificates, envelopes, instruction cards, and other necessary supplies shall be provided by the designated election official in the same manner as other election supplies are provided for in all elections and shall be furnished without cost to any eligible elector wishing to vote pursuant to this article. Absentee ballots shall be ready for delivery or mailing to absentee electors as soon as available.

(2) The ballots shall be in the same form as other official ballots for the same election. On the stub of the absentee ballot shall be printed "Absentee Ballot No. A. V. ....(number)", and such stubs shall be numbered consecutively, commencing with number 1.

(3) In counties including more than one state senatorial district or more than one state representative district, or both, absentee ballots shall be provided in a manner to be determined by the county clerk and recorder for each combination of state legislative districts. Distinctive markings or colors may be used to identify political subdivisions when such colors or distinctive markings will aid in the distribution and tabulation of the ballots. A complete ballot may consist of one or more pages or cards so long as each page or card is numbered and identified as provided for paper ballots in sections 1-5-407 and 1-5-410. This subsection (3) shall apply to ballots to be cast on absentee voting machines as well as to paper ballots and ballot cards which can be electronically counted.

**1-8-102. When absentee eligible electors may vote.** Any eligible elector may vote by absentee ballot at any election under the regulations and in the manner provided in this part 1.

**1-8-103. Effect of "Uniformed and Overseas Citizens Absentee Voting Act"** - emergency authority of secretary of state. (1) In the event of any conflict between this part 1 and any provisions of the federal "Uniformed and Overseas Citizens Absentee

Voting Act", 42 U.S.C. sec. 1973ff et seq., the provisions of the federal act shall control, and all designated election officials who are charged with the performance of duties under this code shall perform the duties and discharge the obligations placed upon them by the federal act.

(2) If a national or local emergency arises which makes substantial compliance with the provisions of this part 1 impossible or unreasonable, such as when congress has declared a national emergency or the president has ordered into active military service of the United States any units and members of the National Guard of this state, the secretary of state may prescribe, by emergency orders or rules, such special procedures or requirements as may be necessary to facilitate absentee voting by those members of the military or military support personnel directly affected by the emergency.

**1-8-103.5. Voting by persons residing overseas and military personnel.**

(1) The designated or coordinated election official for a county or other political subdivision, as applicable, that meets the requirements specified in rules promulgated by the secretary of state pursuant to subsection (3) of this section shall provide an absentee ballot by electronic means to an eligible elector who:

(a) Is an absent uniformed services elector, a nonresident overseas elector, or a resident overseas elector, as defined in section 1-2-208 (2.5); and

(b) (Deleted by amendment, L. 2003, p. 1334, § 4, effective August 6, 2003.)

(c) Timely filed an absentee ballot application with the designated or coordinated election official.

(1.5) Notwithstanding section 1-8-104 (3), a designated or coordinated election official shall not refuse to accept or process any otherwise valid absentee ballot submitted by an absent uniformed services elector, as defined in section 1-2-208 (2.5), during a year on the grounds that the elector submitted the application before the first date on which the designated or coordinated election official otherwise accepts or processes such applications for that year.

(2)(a) The eligible elector may return the voted ballot to the designated or coordinated election official by electronic transfer. In order to be counted, the returned ballot shall be received in the office of the designated or coordinated election official by 7 p.m. on election day. Once the ballot is received by the designated or coordinated election official, a bipartisan team of judges shall duplicate the ballot, and the ballot shall be counted as all other absentee ballots. Duplicating judges shall not reveal how the

elector has cast his or her ballot.

(b) Any elector who receives an absentee ballot pursuant to this section shall be informed in the instructions for completing said ballot that the ballot is not a confidential ballot.

(c) In handling a returned ballot pursuant to this section, all reasonable means shall be taken to ensure that only the receiving judge is aware of information connecting the elector to the returned ballot.

(3) The secretary of state may prescribe by rule any procedures or requirements as may be necessary to implement the provisions of this section. Such rules shall be promulgated in accordance with article 4 of title 24, C.R.S.

**1-8-104. Applications for absentee ballot.** (1) The application for an absentee ballot shall be made in writing or by fax, using the application form furnished by the designated election official or in the form of a letter that includes the applicant's printed name, signature, residence address, mailing address if the applicant wishes to receive the absentee ballot by mail, and date of birth. If the application is made for a primary election ballot, the application shall name the political party with which the applicant is affiliated or wishes to affiliate.

(1.5) Repealed.

(2) The application for an absentee ballot shall be personally signed by the applicant; or, in case of the applicant's inability to sign, the elector's mark shall be witnessed by another person.

(3) The application for an absentee ballot shall be filed with the designated election official of the political subdivision in which the applicant resides or is entitled to vote. The application shall be filed no earlier than January 1 immediately preceding the election and no later than the close of business on the Friday immediately preceding the election; except that, if the applicant wishes to receive the absentee ballot by mail, the application shall be filed no later than the close of business on the eleventh day before the election.

(4) The application for an absentee ballot is subject to the rules of residency contained in section 1-2-102 and is subject to challenge as provided in parts 1 and 2 of article 9 of this title.

(5) A prisoner in pretrial detention may apply for an absentee ballot from the prisoner's county of residence. No application for an absentee ballot shall be accepted unless personally signed by the applicant and accompanied by a certification from the institutional administrator or the administrator's designee that the applicant is in pretrial detention. The institutional administrator shall certify the application immediately upon request by the prisoner.

(6) No person shall give to any eligible



elector any form for the purpose of requesting an absentee ballot unless such form prompts the applicant to provide all the information required by subsection (1) of this section and contains the following statement: "Under Colorado law, your absentee ballot application must contain your printed name, signature, residence address, mailing address if you wish to receive the ballot by mail, and date of birth. If you do not provide all of this information, you may not receive an absentee ballot according to the rules established by the secretary of state." Violation of this subsection (6) is an offense punishable as provided in section 1-13-803.

(7) Notwithstanding any other provision of this section, no absentee ballot shall be mailed to an applicant unless the designated election official has previously received an application for an absentee ballot from the applicant.

**1-8-105. Change of registration record.** A change of name, residence, or affiliation request may be submitted to the county clerk and recorder at the same time the eligible elector submits an application for an absentee ballot if the elector has moved within the county and states that the move occurred no later than thirty days before the election and that the elector has lived at the new residence for at least thirty days. The application shall include the elector's old and new addresses within the county, the elector's printed name and signature, and the date of the application. Upon receipt of the application, the county clerk and recorder shall verify the registration of the elector, amend the registration record, and mail to the elector an official absentee ballot as provided in this part 1.

**1-8-106. Verification of registration of absent elector.** Upon receipt of an application for an absentee ballot within the proper time, the designated election official shall examine the records of eligible electors to ascertain whether or not the applicant is eligible to vote as requested. If the applicant is eligible, the designated election official, either personally in the office of the designated election official or by mail to the mailing address given in the application, shall deliver an official absentee ballot, a return envelope with information as to precinct and residence address as shown by the records in the office, and an instruction card.

**1-8-107. Absentee registration record.** (1) Before any absentee ballot is delivered or mailed or before any eligible elector is permitted to cast a vote at an election where the county clerk and recorder is the designated election official, the designated election official shall record the number of the ballot, together

with the date the ballot is delivered or mailed. The supply judge for the absentee elector's precinct shall receive the list of absentee ballots prepared pursuant to section 1-8-108. Absentee electors for each precinct shall be recorded on the precinct registration list for use at the polls as provided in section 1-5-302.

(2) For nonpartisan elections, absentee electors shall be recorded on the precinct registration list for use at the polls as provided in section 1-5-303.

**1-8-108. List of absentee ballots.** The designated election official shall keep a list of names and precinct numbers of eligible electors applying for absentee ballots, together with the date on which each application was made, the date on which the absentee ballot was sent, and the date on which each absentee ballot was returned. If an absentee ballot is not returned or if it is rejected and not counted, that fact shall be noted on the list. The list is open to public inspection under proper regulations.

**1-8-109. Watchers at absentee polling places.** Any political party, candidate, or proponents or opponents of a ballot issue entitled to have watchers at polling places shall each have the right to maintain one watcher in the office of the designated election official and absentee polling places during the period in which absentee ballots may be applied for or received.

**1-8-110. Challenges.** The right to vote of any person voting by absentee ballot may be challenged in the same manner and for the same causes as other persons are challenged.

**1-8-111. Delivery of absentee ballot and replacement absentee ballots.** (1) The absentee ballot and other materials shall be delivered or mailed to the absentee elector within seventy-two hours after the receipt of the application, if the official ballots are then printed, or, if not then printed, within seventy-two hours after the printed ballots are delivered to the designated election official. If the absentee ballot and other materials are mailed, the envelope shall be marked "DO NOT FORWARD" or by any other similar statement that is in accordance with United States postal service regulations.

(2) Upon a request by an eligible elector stating an emergency need, the designated election official may authorize one or more deputies or may deputize a courier service to deliver the absentee ballot and return the ballot to the office of the designated election official.

(3) The designated election official may issue a replacement absentee ballot if an eligible elector applied for an absentee ballot but did not receive it or if the elector spoiled the absentee ballot.

An affidavit completed by either the elector or the designated election official shall give the reason for requesting a replacement absentee ballot and shall state that the original absentee ballot was not received or was spoiled, that the individual has not voted, and that the individual does not intend to vote at the election except by voting the replacement absentee ballot. The absentee record shall have the notation "Replacement Issued" entered to indicate the original absentee ballot was not received or was spoiled, and the replacement absentee ballot number shall be entered in the absentee record. The first ballot returned by the elector shall be considered the elector's official ballot.

**1-8-112. Voting at group facilities.** (1) When more than five absentee ballots are to be sent to the same group residential facility within a county, which includes but is not limited to, nursing homes and senior citizen housing facilities, a committee consisting of one employee of the county clerk and recorder and, where available, a representative appointed by each of the major political parties shall deliver the absentee ballots and return those ballots to the office of the county clerk and recorder.

(2) For nonpartisan elections, upon the request of an eligible elector, the designated election official may appoint a committee which consists of two or more election judges or employees or representatives of the designated election official.

**1-8-113. Manner of absentee voting - first-time voters casting an absentee ballot after having registered by mail to vote.** (1) (a) Any eligible elector applying for and receiving an absentee ballot, in casting the ballot, shall make and subscribe to the self-affirmation on the return envelope. The elector shall then mark the ballot, fold the ballot or insert the ballot card in the special envelope provided for the purpose so as to conceal the marking, deposit it in the return envelope, enclose identification if required by subsection (3) of this section, and seal the envelope securely. The envelope may be delivered personally or mailed by the elector to the designated election official issuing the ballot. Alternatively, an elector may deliver the ballot to any person of the elector's own choice or to any duly authorized agent of the designated election official for mailing or personal delivery to the designated election official; except that no one person other than a duly authorized agent of the designated election official may receive more than five absentee ballots in any election for mailing or delivery to the designated election official. All envelopes containing absentee ballots shall be in the hands of the designated election official no later than 7 p.m. on the day of the election. Absentee envelopes received after 7 p.m.

on the day of the election but postmarked on or before the day of the election will remain sealed and uncounted, but the elector's registration record will not be canceled for failure to vote in a general election.

(b) and (c) Repealed.

(d) If the return envelope received from an eligible elector described in subsection (3) of this section does not contain identification, the absentee ballot shall be treated as a provisional ballot and shall be verified and counted in accordance with article 8.5 of this title.

(2) Upon receipt of an absentee ballot from an eligible elector, the designated election official shall write or stamp upon the envelope containing the ballot the date the envelope was received in the office. The designated election official shall safely keep and preserve all absentee ballots unopened in a ballot box or transfer case that is locked and secured with a numbered seal until the time prescribed for delivery to the supply judge in accordance with section 1-8-303.

(3) (a) Subject to the requirements of section 1-2-501 (2), the requirements of this subsection (3) shall apply to any person who has registered to vote by mail in accordance with part 5 of article 2 of this title and who:

(I) Has not previously voted in an election in Colorado; or

(II) Is reregistering to vote after moving from one county in this state to another and the election in which the person intends to vote takes place prior to the creation by the department of state of a computerized statewide voter registration list that satisfies the requirements of part 3 of article 2 of this title.

(b) Any person who matches either of the descriptions specified in subparagraph (I) or (II) of paragraph (a) of this subsection (3) and intends to cast his or her ballot by absentee ballot in accordance with the requirements of this article shall submit with his or her absentee ballot a copy of identification within the meaning of section 1-1-104 (19.5).

(c) The designated election official shall include with the absentee ballot written instructions advising an elector who matches the description specified in paragraph (a) of this subsection (3) of the manner in which the elector shall be in compliance with the requirements contained in paragraph (a) of this subsection (3).

(d) Any person who desires to cast his or her ballot by absentee ballot but does not satisfy the requirements of paragraph (b) of this subsection (3) may cast such ballot by voting absentee and the ballot shall be treated as a provisional ballot in accordance with the requirements of article 8.5 of this

title.

(e) The requirements of this subsection (3) shall be implemented by state and local election officials in a uniform and nondiscriminatory manner.

(f) Notwithstanding any other provision of law, the requirements of this subsection (3) shall not apply to any person who is:

(I) Entitled to vote by absentee ballot under the federal "Uniformed and Overseas Citizens Absentee Voting Act", 42 U.S.C. sec. 1973ff et seq.;

(II) Provided the right to vote otherwise than in person under section (b) (2) (B) (ii) of the federal "Voting Accessibility for the Elderly and Handicapped Act", 42 U.S.C. sec. 1973ee-1 et seq.; or

(III) Entitled to vote otherwise than in person under any other federal law.

#### **1-8-114. Self-affirmation on return**

**envelope.** (1) The return envelope for the absentee ballot shall have printed on it a self-affirmation substantially in the following form:

"I state under penalty of perjury that I am an eligible elector; that I reside at the address indicated on my application for an absentee ballot; that I have not and will not cast any vote in this election except by the enclosed ballot; and that my ballot is enclosed in accord with the provisions of the "Uniform Election Code of 1992".

.....  
.....

Date

Signature of voter"

(2) The signing of the self-affirmation on the return envelope for the absentee ballot shall constitute an affirmation by the voter, under penalty of perjury, that the facts stated in the self-affirmation are true.

(3) Assistance to absentee voters may be given by any person selected by the absentee voter. No person other than an elector authorized by the designated election official pursuant to sections 1-8-112 and 1-8-205 shall be permitted to assist more than one absentee voter and unless the person is at least eighteen years of age and is the spouse, parent, grandparent, sibling, or child of the absentee voter seeking assistance. No elector who assists an absentee voter shall attempt to persuade or unreasonably influence the voter to vote in a particular manner while the absentee voter is voting.

#### **1-8-114.5. Verification of Signatures**

(1)(a) Except as provided in paragraph (b) of this subsection (1), in every statewide primary and general election held in 2006 or any subsequent

year, an election judge shall compare the signature on the self-affirmation on each return envelope of each absentee ballot with the signature of the eligible elector on file in the office of the county clerk and recorder in accordance with subsection (2) of this section.

(b) For the statewide primary and general election held in 2004, the election judge shall compare in accordance with paragraph (a) of this subsection (1) only those signatures that are in the county clerk and recorder's database.

(2) (a) If, upon comparing the signature of an eligible elector on the self-affirmation on the return envelope with the signature of that eligible elector on file with the county clerk and recorder, the election judge determines that the signatures do not match, two other election judges of different political party affiliations shall simultaneously compare the signatures. If both other election judges agree that the signatures do not match, the county clerk and recorder shall, within two days after election day, send to the eligible elector at the address indicated in the registration records a letter explaining the discrepancy in signatures and a form for the eligible elector to confirm that the elector returned a ballot to the county clerk and recorder. If the county clerk and recorder receives the form within eight days after election day confirming that the elector returned a ballot to the county clerk and recorder and enclosing a copy of the elector's identification as defined in section 1-1-104 (19.5), and if the ballot is otherwise valid, the ballot shall be counted. If the eligible elector returns the form indicating that the elector did not return a ballot to the county clerk and recorder, or if the eligible elector does not return the form within eight days after election day, the self-affirmation on the return envelope shall be categorized as incorrect, the ballot shall not be counted, and the county clerk and recorder shall send copies of the eligible elector's signature on the return envelope and the signature on file with the county clerk and recorder to the district attorney for investigation.

(b) An original return envelope with an enclosed secrecy envelope containing a voted ballot that is not counted in accordance with paragraph (a) of this subsection (2) shall be stored under seal in the office of the county clerk and recorder in a secure location separate from valid return envelopes and may be removed only under the authority of the district attorney or by order of a court having jurisdiction.

(c) In the case of a disagreement among the election judges as to whether the signature of an eligible elector on the self-affirmation on the return envelope matches the signature of the eligible elector on file with the county clerk and recorder pursuant to the procedures specified in paragraph (a) of this

subsection (2), the absentee ballot contained in the return envelope shall be counted in accordance with the requirements of part 3 of this article.

(3) If the election judge determines that the signature of an eligible elector on the self-affirmation matches the elector's signature on file with the county clerk and recorder, the election judge shall follow the procedures specified in part 3 of this article pertaining to the counting of absentee ballots.

(4) (a) An election judge shall not determine that the signature of an eligible elector on the self-affirmation does not match the signature of that eligible elector on file with the county clerk and recorder solely on the basis of substitution of initials or use of a common nickname.

(b) The designated election official may provide training in the technique and standards of signature comparison to election judges who compare signatures pursuant to this section.

**1-8-115. Emergency absentee voting.** (1) (a) In the event an eligible elector or a member of an eligible elector's immediate family, related by blood or marriage to the second degree, is confined in a hospital or place of residence on election day and the confinement occurred because of conditions arising after the last day to apply for an absentee ballot, the elector may request in a personally signed written statement that the designated election official send an absentee ballot with the word "EMERGENCY" stamped on the stubs. The designated election official shall deliver the emergency absentee ballot, at the official's office during the regular hours of business, to any authorized representative of the elector. For the purposes of this paragraph (a), "authorized representative" means a person who possesses a written statement from the elector containing the elector's signature, name, and address indicating that the elector is or will be confined in a hospital or place of residence on election day, and requesting that the emergency absentee ballot be given to the authorized person as identified by name and address. The authorized person shall acknowledge receipt of the emergency absentee ballot with a signature, name, and address.

(b) A request for an emergency absentee ballot under this section shall be made before 5 p.m. on the day of the election, and the ballot shall be returned no later than 7 p.m. on the day of the election.

(c) If the eligible elector is unable to have an authorized representative pick up the ballot at the office of the designated election official and deliver it to the eligible elector, the designated election official shall deliver an absentee ballot to the eligible elector by electronic transfer in accordance with the rules of the secretary of state.

(2) Any eligible elector, including any election official, who is unable to go to the polls because of conditions arising after the closing date for absentee ballot applications which will result in the elector's absence from the precinct on election day, may apply at the office of the designated election official for an emergency absentee ballot. Upon receipt of an affidavit signed by the elector on a form provided by the designated election official and attesting to the fact that the elector will be absent from the precinct on election day because of conditions arising after the last day to apply for an absentee ballot, the designated election official shall provide the elector with an absentee ballot with the word "EMERGENCY" stamped on the stubs. The request for the ballot shall be made, and the ballot shall be voted at the designated election official's office or outside of the office and returned by 7 p.m. on the day of the election.

(3) After marking the ballot, the eligible elector shall place it in a return envelope provided by the designated election official. The elector shall then fill out and sign the self-affirmation on the envelope, as provided in section 1-8-114, on or before election day and return it to the office of the designated election official. Upon receipt of the envelope, the designated election official shall verify the elector's name on the return envelope and shall deposit the envelope in the office in a ballot box that is locked and secured with a numbered seal.

(4) If, following the procedure set forth in this section, the designated election official is unable to provide an absentee ballot to an elector, the designated election official shall seek authority from the secretary of state to provide an absentee ballot to the elector by electronic transfer in accordance with the election rules of the secretary of state.

**1-8-116. Special write-in blank absentee ballots.** (1) A citizen who resides or is traveling outside the United States, who is a registered elector in this state prior to his or her departure, and who qualifies pursuant to this section may apply to the county clerk and recorder for a special write-in blank absentee ballot to vote at a primary, general, coordinated, or congressional vacancy election, regardless of whether the elector has previously submitted an absentee ballot application for the election. An application for a special write-in blank absentee voter ballot shall contain a statement by the registered elector that due to military or other contingencies that preclude normal mail delivery, as specified by the elector, the elector believes that he or she cannot vote an absentee ballot during the normal period provided by this part 1. An application made pursuant to this section that is received by the designated election official prior to the fifty-seventh

day before the election shall be kept and processed on or after the fifty-seventh day before the election.

(2) If the applicant is qualified, the designated election official shall immediately send the elector a ballot and a list of all candidates who have qualified for the ballot by the fifty-seventh day before the election and a list of all measures that are to be submitted to the voters and upon which the elector is qualified to vote.

(3) On the special write-in blank absentee ballot, the registered elector may designate his or her candidate by writing in the name of the candidate or by writing in the name of a political party or political organization, in which case the ballot shall be counted for the candidate of that political party or political organization. Any abbreviation, misspelling, or other minor variation in the form of the name of the candidate, political party, or political organization shall be disregarded in determining the validity of the ballot as long as the intention of the registered elector can be ascertained.

(4)(a) If both a federal write-in blank absentee ballot pursuant to section 1-8-117 and a special write-in blank absentee ballot pursuant to this section are returned by the voter, the federal write-in absentee ballot shall be deemed void, and votes shall be counted from the special write-in blank absentee ballot only.

(b) If both an absentee ballot and a special write-in blank absentee ballot are returned, the special write-in blank absentee ballot shall be deemed void, and votes shall be counted from the absentee ballot only.

(5) Special write-in blank absentee ballots shall be counted in accordance with section 1-8-302.

**1-8-117. Federal write-in absentee ballots pursuant to the "Uniformed and Overseas Citizens Absentee Voting Act".** (1) An absent uniformed services elector, nonresident overseas elector, or resident overseas elector, as defined in section 1-2-208 (2.5), who is an eligible elector in this state prior to the elector's departure or pursuant to section 1-2-208 is entitled to vote for federal officers by a federal write-in absentee ballot at any primary, general, or congressional vacancy election.

(2) An absent uniformed services elector, nonresident overseas elector, or resident overseas elector may apply for an absentee ballot by the use of a properly executed federal postcard application, as provided for in the federal "Uniformed and Overseas Citizens Absentee Voting Act of 1986", P.L. 99-410.

(3) If an absent uniformed services elector, nonresident overseas elector, or resident overseas elector submits a properly executed federal postcard application pursuant to this section and the county clerk and recorder receiving it determines that the

applicant is not properly registered, the county clerk and recorder shall register the applicant in accordance with section 1-2-208 and shall then deliver to the applicant the official absentee ballot and other materials necessary for the applicant to vote properly.

(4)(a) In accord with the "Uniformed and Overseas Citizens Absentee Voting Act", Public Law 99-410, the federal write-in absentee ballot shall be provided to an eligible elector who has applied for a Colorado absentee ballot but believes that he or she will be unable to vote and return the ballot by normal mail delivery within the period of time provided for the state absentee ballot.

(b) The eligible elector may designate the federal candidate by writing in the name of the candidate or by writing in the name of a political party or political organization, in which case the ballot shall be counted for the candidate of that political party or political organization. Any abbreviation, misspelling, or other minor variation in the form of the name of the candidate, political party, or political organization shall be disregarded in determining the validity of the ballot as long as the intention of the elector can be ascertained.

(5)(a) If an application for a Colorado absentee ballot has been received and processed by the county clerk and recorder but a federal write-in absentee ballot, and not the state absentee ballot, is returned, only those votes cast for the federal officers on the federal write-in absentee ballot shall be counted.

(b) If both a Colorado absentee ballot and a federal write-in absentee ballot are returned, the federal write-in absentee ballot shall be deemed void and votes shall be counted from the state absentee ballot only.

(6) Federal write-in absentee ballots shall be counted in accord with section 1-8-302.

**1-8-118. Opt-out from absentee ballot requirements.** (1) In the case of any general election in which registered electors who live in specified precincts in a particular county are required to cast their ballots by mail in the form of absentee ballots in accordance with the requirements of this part 1, the clerk and recorder of the county shall notify such electors that they may opt-out from casting their ballots in such manner. In such cases, the clerk and recorder shall further direct such electors to cast their ballots by any of the following means:

(a) Early voting prior to election day in accordance with the requirements of part 2 of this article;

(b) At the office of the clerk and recorder on election day; or

(c) At such other locations as the clerk and recorder may designate.

### **PART 3 COUNTING ABSENTEE AND EARLY VOTERS' BALLOTS**

**1-8-301. Appointment of election judges for counting absentee and early ballots.** (1) If, in any political subdivision, the designated election official has mailed or delivered absentee ballots to five hundred or more electors, the designated election official shall appoint, in addition to the receiving judges appointed as provided in section 1-8-205, at least three counting judges, not more than two of whom shall be from any one political party and whose powers and duties shall be the same as provided in section 1-7-305 for counting judges in precinct polling places. For each additional five hundred absentee ballots so mailed or delivered, the designated election official may appoint additional counting judges as needed.

(2) In all political subdivisions in which electronic or electromechanical voting systems are used, the designated election official, for each five hundred absentee ballots mailed or delivered, may appoint, in addition to the receiving judges appointed as provided in section 1-8-205, five counting judges, not more than three of whom shall be from any one political party in a partisan election.

(3) In political subdivisions to which this section applies, the designated election official shall make the appointments so that one major political party is represented by a majority of election judges on the absentee receiving board and the other major political party is represented by a majority of election judges on the absentee counting board of the county. The designated election official shall appoint those electors certified by the county party chairpersons of the major political parties to the designated election official as absentee receiving judges and absentee counting judges. If an elector certified by a major political party is not willing or able to serve, then the major political party that certified the elector may certify a replacement judge to the designated election official. If the major political parties do not certify a sufficient number of absentee receiving and counting judges to the designated election official, the designated election official may appoint a sufficient number of qualified electors to serve as absentee receiving and counting judges.

(4) In all political subdivisions to which this section applies, where the designated election official has appointed one or more student election judges pursuant to article 6 of this title, the student election judge shall be appointed to serve as a judge for the purpose of counting absentee and early ballots

pursuant to this section; except that the student election judge need not satisfy any party affiliation required of election judges by this section.

### **1-8-302. Hours absentee and early voters' counting place open for receiving and counting ballots.**

(1) (Deleted by amendment, L. 99, p. 777, § 61, effective May 20, 1999.)

(2) The election officials at the absentee and early voters' counting place may receive, cast, and prepare for tabulation absentee and early voters' ballots delivered and turned over to them by the designated election official. Counting of the absentee and early voters' ballots may begin ten days prior to the election and continue until counting is completed. The election officials in charge of the absentee ballot counting place shall take all precautions necessary to ensure the secrecy of the counting procedures, and no information concerning the count shall be released by the election officials or watchers until after 7 p.m. on election day.

**1-8-303. Delivery of absentee and early voters' ballots to supply judge.** At any time during the ten days prior to and including the election day, the designated election official shall deliver to the judges of the absentee and early voters' ballot counting place all the absentee envelopes received up to that time in packages or in ballot boxes that are locked and secured with a numbered seal together with the signed applications for the absentee ballots, the count and the list of absentee and early electors, and the record of absentee ballots as provided for in section 1-8-108 for which a receipt will be given. The designated election official shall continue to deliver any envelopes containing absentee ballots that may be received thereafter up to and including 7 p.m. on election day. On the sealed packages and boxes of absentee envelopes shall be printed or written "This package (or box) contains ..... (number) absentee envelopes." With the envelopes, the designated election official shall deliver to the supply judge written instructions, which shall be followed by the election judges in casting and counting the ballots, and all the lists, records, and supplies needed for tabulating, recording, and certifying the absentee and early voters' ballots.

**1-8-304. Preparing to count absentee ballots - rejections.** (1) (a) Before opening any absentee ballot, one of the receiving judges, in the presence of a majority of the receiving judges, shall inspect the self-affirmation on the return envelope and, in an election coordinated by the county clerk and recorder, compare the signature on the self-

affirmation with the signature of the eligible elector on file in the county clerk and recorder's office.

(b) The self-affirmation is valid if:

(I) The self-affirmation was completed by the elector or a person acting in the elector's behalf;

(II) The self-affirmation was signed by the elector or, if the elector is unable to sign, marked by the elector with or without assistance and witnessed by another person; and

(III) In an election coordinated by the county clerk and recorder, the signature on the self-affirmation matches the signature on file in the county clerk and recorder's office, or the eligible elector's marks on the application and the self-affirmation were witnessed by other persons.

(c) If the self-affirmation is valid, the receiving judge shall tear open the envelope without defacing the self-affirmation or mutilating the enclosed ballot. One of the election judges shall enter or verify the name of the absentee voter in the pollbook, and another election judge shall deposit the ballot in the ballot box.

(d) For purposes of subparagraph (III) of paragraph (b) of this subsection (1), the signatures on an eligible elector's self-affirmation and on file in the county clerk and recorder's office shall be compared in the same manner as signatures on mail ballots are compared pursuant to article 7.5 of this title.

(2) If the self-affirmation on the return envelope is invalid, the election judges shall mark the envelope "rejected" and shall write on the envelope the reason for the rejection. The envelope shall be set aside without being opened, and the ballot shall not be counted.

(3) If it appears to the election judges, by sufficient proof, that an absentee ballot sent to an elector who died after requesting the ballot contains a forged affidavit, the envelope containing the ballot of the deceased absentee voter shall not be opened, and the election judges shall make notation of the death and fraudulent signature on the back of the envelope. The ballot shall be forwarded to the district attorney for investigation of a violation of section 1-13-106. If an absentee envelope contains more than one marked ballot of any one kind, none of the ballots shall be counted, and the election judges shall write the reason for rejection on the back of the ballots.

(4) Election judges shall certify in their returns the number of absentee ballots cast and counted for each candidate, for and against each ballot issue, and for and against each ballot question, and the number of ballots rejected.

**1-8-305. Counting absentee and early voters' ballots - partisan elections.** (1) Absentee and early voters' ballots shall be counted after delivery of the

ballots as provided in section 1-8-303 and after preparation of the ballots as provided in section 1-8-304.

(2) Absentee and early voters' ballots shall be counted in one of the following ways:

(a) In counties that use paper ballots, the absentee and early voters' ballots may be counted in the manner provided in section 1-7-307 for counting paper ballots.

(b) (Deleted by amendment, L. 2004, p. 1360, § 26, effective May 28, 2004.)

(c) Any county may use electronic vote-tabulating equipment for the counting of absentee ballots in the same manner provided for the counting of precinct ballots in part 6 of article 5 and parts 4 and 5 of article 7 of this title.

(d) Early voters' ballots that are cast directly on electronic or electromechanical vote-tabulating equipment shall be counted in the same manner as provided for the counting of precinct ballots in part 6 of article 5 and parts 4 and 5 of article 7 of this title.

(3) Votes for or against any ballot issue or measure shall be cast in the same manner as provided in section 1-8-206.

**1-8-306. Counting absentee and early voters' ballots - nonpartisan elections.** (1) After delivery of the ballots as provided in section 1-8-303 and after preparation of the ballots as provided in section 1-8-304, the absentee and early voters' ballots shall be counted in one of the following ways:

(a) In political subdivisions that use paper ballots, the absentee and early voters' ballots may be counted in the manner provided in section 1-7-307 for counting paper ballots.

(b) Repealed.

(c) Any political subdivision may use electronic vote-tabulating equipment for the counting of absentee ballots in the same manner provided for the counting of precinct ballots in part 6 of article 5 and parts 4 and 5 of article 7 of this title.

(d) Early voters' ballots which are cast directly on voting machines or on electronic vote-tabulating equipment shall be counted in the same manner as provided for the counting of precinct ballots in part 6 of article 5 and parts 4 and 5 of article 7 of this title.

(2) Votes for or against any measure appearing on the ballot shall be cast in the same manner as provided in section 1-8-206.

**1-8-307. Casting and counting - electronic system.** In political subdivisions using a ballot card electronic voting system, absentee and early voters' ballots may be cast on paper ballots and counted as provided in section 1-7-307 or may be cast on ballot cards and counted by electronic voting equipment as

provided in part 6 of article 5 and parts 4 and 5 of article 7 of this title, or both methods may be used.

**1-8-308. Certificate of absentee and early voters' ballots cast - survey of returns.** (1) Upon the completion of the count of absentee and early voters' ballots, the election judges shall make the certificate and perform all the official acts required by sections 1-7-601 and 1-7-602.

(2) Upon the survey of the returns of the political subdivision by the board of canvassers formed pursuant to section 1-10-101 or 1-10-201, the board shall include in its abstract of votes the votes cast in the early voters' polling place and counted at the absentee and early voters' counting place in the manner provided for abstracting votes cast and counted at precinct polling places, as provided in article 10 of this title.

**1-8-309. Return of absentee and early voters' registration list.** The absentee and early voters' registration list shall be returned to the designated election official with the certificate required to be filed by section 1-8-308.

**1-8-310. Preservation of rejected absentee and early voters' ballots.** All absentee identification envelopes, ballot stubs, and absentee and early voters' ballots rejected by the election judges in accordance with the provisions of section 1-8-304 shall be returned to the designated election official. All absentee ballots received by the designated election official after 7 p.m. on the day of the election, together with the rejected absentee and early voters' ballots returned by the election judges as provided in this section, shall remain in the sealed identification envelopes and shall be destroyed later as provided in section 1-7-802.

**1-8-311. Maintenance of records of absentee and early voting - transmittal of such lists to secretary of state.** The designated election official shall maintain a record identifying the name and voting address of each elector who casts a ballot by absentee or early voting at any election.

## **ARTICLE 8.5**

### **Provisional Ballots**

- 1-8.5-101. Provisional ballot - entitlement to vote.
- 1-8.5-102. Form of provisional ballot - envelope.
- 1-8.5-103. Provisional ballot affidavit.
- 1-8.5-104. Voting procedure - provisional ballot.
- 1-8.5-105. Verification of provisional ballot information - counting procedure.
- 1-8.5-106. Counting of provisional ballots.
- 1-8.5-107. Electors who move before close of

registration - effect of provisional ballot.

- 1-8.5-108. Electors who move after close of registration - effect of provisional ballot.
- 1-8.5-109. Electors who vote outside precinct of residence - effect of provisional ballot.
- 1-8.5-110. Handling of provisional ballots - reporting of results.
- 1-8.5-111. Information system.
- 1-8.5-112. Rules.

**1-8.5-101. Provisional ballot - entitlement to vote.** (1) At any election conducted pursuant to this title, a voter claiming to be properly registered but whose qualification or entitlement to vote cannot be immediately established upon examination of the registration list for the precinct or upon examination of the records on file with the county clerk and recorder shall be entitled to cast a provisional ballot in accordance with this article.

(2) An elector who desires to vote but does not show identification in accordance with section 1-7-110 (2) may cast a provisional ballot.

(3) If an elector applies for an absentee ballot but spoils it or otherwise does not cast it, the elector may cast a provisional ballot at the polling place, vote center, or early voter's polling place if the elector affirms under oath that the elector has not and will not cast the absentee ballot. The provisional ballot shall be counted if the designated election official verifies that the elector is registered to vote and did not cast the absentee ballot and if the elector's eligibility to vote in the county is verified pursuant to section 1-8.5-105.

(4) No elector shall be denied the right to cast a provisional ballot in any election held pursuant to this title.

**1-8.5-102. Form of provisional ballot - envelope.** (1) A provisional ballot shall contain text clearly identifying it as a provisional ballot.

(2) The affidavit and instructions on the voting and handling of provisional ballots shall be printed on the provisional ballot envelope. The secretary of state shall prescribe by rules promulgated in accordance with article 4 of title 24, C.R.S., the language of the instructions and the format and size of the provisional ballot envelope.

(3) Each polling place shall have on hand a sufficient number of provisional ballots in all ballot styles applicable to that polling place and a sufficient number of provisional ballot envelopes.

**1-8.5-103. Provisional ballot affidavit.** (1) The provisional ballot affidavit shall contain language prescribed by the secretary of state by rule and shall include an attestation, a notice of perjury, a warning of the penalty for falsifying the affidavit, and



information sufficient to verify the elector's eligibility to vote and to register the elector to vote or transfer the elector's registration.

(2) (a) The provisional ballot affidavit shall constitute a voter registration application for the voter for future elections. Any previous voter registration for the voter shall be cancelled pursuant to section 1-2-603 (1).

(b) This subsection (2) shall not apply to an elector who casts a provisional ballot pursuant to section 1-8.5-101 (2) or (3).

**1-8.5-104. Voting procedure - provisional ballot.** (1) An elector casting a provisional ballot shall complete and sign the provisional ballot affidavit, mark the ballot, and seal the ballot in the provisional ballot envelope.

(2) The fact that an elector casts a provisional ballot shall be indicated on the signature card or pollbook next to the elector's name.

(3) The election judge shall examine the provisional ballot affidavit. If the election judge notices that the elector did not sign the affidavit, the election judge shall inform the elector that the provisional ballot will not be counted if the affidavit is not signed.

(4) If an elector who is casting a provisional ballot does not show identification as required by section 1-7-110 (2), the election official shall indicate on a space provided on the provisional ballot envelope that the elector did not show identification.

(5) The provisional ballot envelope containing the marked provisional ballot shall be deposited in a ballot container. All provisional ballots cast shall remain sealed in their envelopes for return to the county clerk and recorder or designated election official.

(6) After an elector casts a provisional ballot, the election official shall give the elector a written notice that an elector who casts a provisional ballot has the right to know whether the vote was counted and the reason if the provisional ballot was not counted. The notice shall specify the toll-free telephone number, internet website, or other free access system established by the secretary of state or the designated election official by means of which the elector may receive this information about the elector's provisional ballot.

**1-8.5-105. Verification of provisional ballot information - counting procedure.** (1) In accordance with this section and using the procedures and databases prescribed by the secretary of state by rules promulgated in accordance with article 4 of title 24, C.R.S., the designated election official shall attempt to verify that an elector who cast a provisional ballot is eligible to

vote. The designated election official or designee shall complete the preliminary verification of the elector's eligibility to vote before opening the envelope.

(2) If the elector signs but does not fill in all the information requested on the provisional ballot affidavit, the ballot shall be counted only if the designated election official is able to determine that the elector was eligible to vote in the precinct and county.

(3) (a) If a provisional ballot affidavit is not signed, the designated election official shall send a letter to the elector no later than two days after the election informing the elector that the affidavit was not signed and that the provisional ballot cannot be counted unless the affidavit is signed. The letter shall state that the elector may come to the office of the county clerk and recorder to sign the provisional ballot affidavit no later than eight days after the election.

(b) If the elector does not sign the provisional ballot affidavit after receiving notice pursuant to paragraph (a) of this subsection (3), the provisional ballot shall not be counted.

(c) The designated election official shall retain a copy of the letter sent pursuant to paragraph (a) of this subsection (3).

(4) The designated election official shall determine the time for the verification and counting of provisional ballots to begin in accordance with rules promulgated by the secretary of state. A board appointed by the designated election official shall open all verified provisional ballot envelopes and count the ballots in accordance with the procedure prescribed by the designated election official in accordance with this title and the election rules of the secretary of state.

(5) The designated election official shall complete the verification and counting of all provisional ballots within ten days after a primary election and within fourteen days after a general, odd-year, or coordinated election. The designated election official shall count all absentee ballots cast in an election before counting any provisional ballots cast by electors who requested absentee ballots for the election.

**1-8.5-106. Counting of provisional ballots.** If the designated election official verifies that an elector who cast a provisional ballot in accordance with this article is eligible to vote, the provisional ballot shall be counted. If the elector's registration cannot be verified, the ballot shall not be counted.

**1-8.5-107. Electors who move before close of registration - effect of provisional ballot.** (1) A person who moves to Colorado from another state no

later than the thirtieth day before an election but fails to register to vote before the close of registration may cast a provisional ballot, but the ballot shall not be counted. The provisional ballot affidavit shall serve as the person's voter registration application for future elections.

(2) (a) A registered elector who moves from the county in which the elector is registered to another county in the state no less than thirty days before an election but fails to register to vote in the new county of residence before the close of registration may complete an emergency registration form at the office of the county clerk and recorder pursuant to section 1-2-217.5 or may cast a provisional ballot at a polling place, vote center, or early voter's polling place.

(b) If the elector completes an emergency registration form on an election day and the county clerk and recorder is unable to verify the elector's qualification to vote, the elector may cast a provisional ballot.

(c) If the elector casts a provisional ballot, the ballot shall be counted if the elector's eligibility to vote in the county is verified pursuant to section 1-8.5-105. The provisional ballot affidavit shall serve as the elector's voter registration application for future elections.

(3) If a registered elector moves from the precinct in which the elector is registered to another precinct within the same county before the close of registration but fails to register at the new address or complete a change of address form pursuant to section 1-2-216 (4) (a), the elector may cast a provisional ballot, which shall be counted if the county clerk and recorder or designated election official verifies that the elector is eligible to vote in the elector's new precinct of residence.

**1-8.5-108. Electors who move after close of registration - effect of provisional ballot.** (1) A person who moves to Colorado from another state in the twenty-nine days before an election may cast a provisional ballot, but the ballot shall not be counted. The provisional ballot affidavit shall serve as the person's voter registration application for future elections.

(2) If an elector who moves from the county in which the elector is registered to another county during the twenty-nine days before an election does not vote in the county where registered pursuant to section 1-2-217 (1) and instead casts a provisional ballot in the new county of residence, the elector's votes for federal and statewide offices and statewide ballot issues and ballot questions shall be counted. The provisional ballot affidavit shall serve as the elector's voter registration application for future elections.

(3) If an elector who moves from the precinct in which the elector is registered to another precinct in the same county during the twenty-nine days before an election does not vote in the precinct where registered pursuant to section 1-2-217 (2) and instead casts a provisional ballot in the new precinct of residence, the elector's votes for federal and statewide offices and statewide ballot issues and ballot questions shall be counted. The provisional ballot affidavit shall serve as the elector's voter registration application for future elections.

**1-8.5-109. Electors who vote outside precinct of residence - effect of provisional ballot.** If an elector casts a provisional ballot at a polling place in a precinct other than the precinct in which the elector is registered, the elector's votes for federal and statewide offices and statewide ballot issues and ballot questions shall be counted.

**1-8.5-110. Handling of provisional ballots - reporting of results.** (1) Provisional ballots shall be kept separate from all other ballots and counted separately.

(2) If twenty-five or more provisional ballots are cast and counted in a county, the designated election official shall report the results of voting by provisional ballot as a separate total. If fewer than twenty-five provisional ballots are cast and counted, the results of voting by provisional ballot shall be included in the results of voting by absentee ballot.

(3) Votes cast by provisional ballot shall not be included in any unofficial results reported and shall be reported only as part of the official canvass.

(4) The designated election official shall keep a log of each provisional ballot cast, each provisional ballot counted, and each provisional ballot rejected. The code for the acceptance or rejection of the provisional ballot as prescribed by the secretary of state shall be marked on the log. The designated election official shall keep all rejected provisional ballots in their unopened envelopes for no less than twenty-five months.

**1-8.5-111. Information system.** For any election held on or after January 1, 2004, in which a provisional ballot is cast, the county clerk and recorder or designated election official shall establish a system allowing an elector who cast a provisional ballot to discover whether the ballot was counted and, if the ballot was not counted, the reason the ballot was not counted. The system shall provide access to this information at no cost to the voter by toll-free telephone call, internet website, or other suitable medium, in accordance with the federal "Help America Vote Act of 2002", P.L. No. 107-252. Information about a provisional ballot shall be

disclosed only to the voter who cast the ballot.

**1-8.5-112. Rules.** The secretary of state shall promulgate all appropriate rules in accordance with article 4 of title 24, C.R.S., for the purpose of ensuring the uniform application of this article.

## **ARTICLE 9 Challenges**

### **PART 2 CHALLENGES TO VOTING**

- 1-9-201. Right to vote may be challenged.
- 1-9-202. Challenge to be made by written oath.
- 1-9-203. Challenge questions asked person intending to vote.
- 1-9-204. Oath of challenged elector.
- 1-9-205. Refusal to answer questions or take oath. (Repealed)
- 1-9-206. Challenges of absentee ballots.
- 1-9-207. Challenges of ballots cast by mail.
- 1-9-208. Challenges of provisional ballots.
- 1-9-209. Challenges delivered to district attorney.
- 1-9-210. Copy of challenge delivered to elector.

### **PART 3 PROVISIONAL BALLOTS**

- 1-9-301 to
- 1-9-306. (Repealed)

### **PART 2 CHALLENGES TO VOTING**

**1-9-201. Right to vote may be challenged.** (1) (a) A person's right to vote at a polling place or in an election may be challenged.

(b) If a person whose right to vote is challenged refuses to answer the questions asked or sign the challenge form in accordance with section 1-9-203 or take the oath pursuant to section 1-9-204, the person shall be offered a provisional ballot. If the person casts a provisional ballot, the election judge shall attach the challenge form to the provisional ballot envelope and indicate "Challenge" on the provisional ballot envelope.

(2) An election judge shall challenge any person intending to vote who the judge believes is not an eligible elector. In addition, challenges may be made by watchers or any eligible elector of the precinct.

(3) A challenge at a polling place shall be made in the presence of the person whose right to vote is challenged.

**1-9-202. Challenge to be made by written**

**oath.** Each challenge shall be made by written oath, shall set forth the name of the person challenged and the specific factual basis for the challenge of the person's right to vote, and shall be signed by the challenger under penalty of perjury in the second degree, as specified in section 1-13-104. The election judges shall forthwith deliver all challenges to the designated election official. No oral challenge shall be permitted.

**1-9-203. Challenge questions asked person intending to vote.**

(1) (Deleted by amendment, L. 2005, pp. 1420, 1455, §§ 42, 42, effective June 6, 2005.)

(2) If the person is challenged as not eligible because the person is not a citizen, an election judge shall ask the following question:

(a) Are you a citizen of the United States?

(b) (Deleted by amendment, L. 93, p. 1432, § 109, effective July 1, 1993.)

(3) If the person is challenged as not eligible because the person has not resided in this state and precinct for thirty days immediately preceding the election, an election judge shall ask the following questions:

(a) Have you resided in this state and precinct for the thirty days immediately preceding this election?

(b) Have you been absent from this state during the thirty days immediately preceding this election, and during that time have you maintained a home or domicile elsewhere?

(c) If so, when you left, was it for a temporary purpose with the intent of returning, or did you intend to remain away?

(d) Did you, while absent, look upon and regard this state as your home?

(e) Did you, while absent, vote in any other state or any territory of the United States?

(4) If the person is challenged as not eligible because the person is not eighteen years of age or older, an election judge shall ask the following question: To the best of your knowledge and belief, are you eighteen years of age or older?

(5) If the person is challenged as not eligible because the person is not a property owner or the spouse of a property owner, an election judge shall ask the following questions:

(a) Are you a property owner or the spouse of a property owner in this political subdivision and therefore eligible to vote?

(b) What is the address or, for special district elections where an address is not available, the location of the property which entitles you to vote in this election?

(6) An election judge shall put all other questions to the person challenged as may be

necessary to test the person's qualifications as an eligible elector at the election.

(7) If the person challenged answers satisfactorily the questions asked in accordance with this section and signs the oath pursuant to section 1-9-204, the election judge shall offer the person challenged a regular ballot, and the challenger may withdraw the challenge. The election judge shall indicate in the proper place on the challenge form whether the challenge was withdrawn or whether the challenged elector refused to answer the questions and left the polling place without voting a provisional ballot.

**1-9-204. Oath of challenged elector.** (1) An election judge shall tender an oath substantially in the following form: "I do solemnly swear or affirm that I have fully and truthfully answered all questions that have been put to me concerning my place of residence and my qualifications as an eligible elector at this election. I further swear or affirm that I am a citizen of the United States of the age of eighteen years or older; that I have been a resident of this state and precinct for thirty days immediately preceding this election and have not maintained a home or domicile elsewhere; that I am a registered elector in this precinct; that I am eligible to vote at this election; and that I have not previously voted at this election."

(2) After the person has taken the oath or affirmation, a regular ballot shall be given to the person and an election judge shall write "sworn" on the pollbooks at the end of the person's name.

**1-9-205. Refusal to answer questions or take oath.** (Repealed)

**1-9-206. Challenges of absentee ballots.** The ballot of any absentee voter may be challenged using a challenge form signed by the challenger under penalty of perjury setting forth the name of the person challenged and the basis for the challenge. Challenged ballots, except those rejected for an incomplete or incorrect affidavit by the elector on the returned absentee ballot envelope, forgery of a deceased person's signature on an absentee ballot affidavit, or submission of multiple ballots, shall be counted. The election judges shall forthwith deliver all challenges, together with the affidavits of the persons challenged, to the county clerk and recorder or designated election official, as applicable.

**1-9-207. Challenges of ballots cast by mail.** The ballot of any elector that has been cast by mail may be challenged using a challenge form signed by the challenger under penalty of perjury setting forth the name of the person challenged and the basis for the

challenge. Challenged ballots, except those rejected for an incomplete or incorrect affidavit by an elector on the returned mail ballot envelope, forgery of a deceased person's signature on an absentee ballot affidavit, or submission of multiple ballots, shall be counted. The election judges shall forthwith deliver all challenges, together with the affidavits of the persons challenged, to the county clerk and recorder or designated election official, as applicable.

**1-9-208. Challenges of provisional ballots.** The ballot of any provisional voter may be challenged using a challenge form signed by the challenger under penalty of perjury setting forth the name of the person challenged and the basis for the challenge. Challenged provisional ballots, except those rejected for an incomplete, incorrect, or unverifiable provisional ballot affidavit, forgery of a deceased person's signature on an absentee ballot affidavit, or submission of multiple ballots shall be counted if the other requirements for counting provisional ballots are satisfied. The election judges shall deliver all challenges, together with the affidavits of the persons challenged, to the county clerk and recorder or the designated election official.

**1-9-209. Challenges delivered to district attorney.** The county clerk and recorder or designated election official shall forthwith deliver a challenge that is not withdrawn, along with the affidavit of the elector on the absentee, provisional ballot, or mail ballot return envelope, to the district attorney for investigation and action. When practicable, the district attorney shall complete the investigation within ten days after receiving the challenge.

**1-9-210. Copy of challenge delivered to elector.** When a challenge is made to a person who cast an absentee ballot, mail ballot, or provisional ballot and the person was not present at the time of the challenge, the county clerk and recorder or designated election official shall notify and mail a copy of the challenge to the person challenged in accordance with the rules of the secretary of state.

## **ARTICLE 10 Survey of Returns**

### **PART 2 SURVEY OF RETURNS - NONPARTISAN ELECTIONS**

- |           |  |
|-----------|--|
| 1-10-201. | Canvass of nonpartisan elections.          |
| 1-10-202. | Canvass of votes in coordinated elections. |
| 1-10-203. | Official abstract of votes cast -          |

nonpartisan elections.

1-10-204. Imperfect returns.

1-10-205. Corrections.

**1-10-201. Canvass of nonpartisan elections.** (1) Except as provided for special districts in subsection (1.5) of this section, at least fifteen days before any nonpartisan election that is not coordinated by the county clerk and recorder, the governing body or bodies that called the election shall appoint two registered electors of the political subdivision to serve as members of the canvass board. One of the two persons appointed may be a member of the governing body. The persons so appointed and the designated election official constitute the canvass board for the election. If the election is coordinated between two or more governing bodies, the canvass board shall be appointed in accordance with the intergovernmental agreement between the governing bodies.

(1.5) Unless otherwise directed by the board of directors of a special district, at least fifteen days before any regular special district election, the designated election official shall appoint at least one member of the board of such district and at least one eligible elector of the special district who is not a member of such board to assist the designated election official in the survey of returns. The persons so appointed and the designated election official constitute the board of canvassers for the election.

(2) To the fullest extent possible, no member of the canvass board nor the member's spouse shall have a direct interest in the election.

(3) If for any reason any person appointed as a member of the canvass board refuses, fails, or is unable to serve, that appointed person shall notify the designated election official, who shall appoint another person with the same qualifications, if available, to the canvass board.

(4) Each canvass board member who is not a member of the governing body shall receive a minimum fee of fifteen dollars for each day of service. The fee shall be set by the designated election official and shall be paid by the political subdivision for which the service is performed.

(5) Prior to assuming their duties, the members of the canvass board shall swear or affirm the following: "I, \_\_\_\_\_, do solemnly swear (or affirm) that I am a registered elector in the county of \_\_\_\_\_ and of the state of Colorado and that I will faithfully perform the duties required of a

#### **ARTICLE 10.5 Recounts**

1-10.5-101. Recounts required - expenses.

1-10.5-103. Recount for other offices, ballot issues, and ballot questions in an election

member of the canvass board."

**1-10-202. Canvass of votes in coordinated elections.** For any election coordinated by the county clerk and recorder, the canvass board shall be appointed in accordance with the intergovernmental agreement between the governing bodies holding the election.

**1-10-203. Official abstract of votes cast - nonpartisan elections.** (1) No later than seven days after an election, the canvass board shall certify to the designated election official the official abstract of votes cast for all candidates, ballot issues, and ballot questions in that election.

(2) If the election is canceled pursuant to section 1-5-208, the designated election official shall note the cancellation and the declared winner on the certified statement of results and the abstract of votes cast, if one is prepared.

(3) If a recount is held and the result of the election changes after the recount, the canvass board shall prepare and certify an amended official abstract of votes cast. If the result of an election subject to a recount does not change after such recount, the canvass board shall include a statement of that fact in the abstract of votes cast.

**1-10-204. Imperfect returns.** If the canvass board finds that the method of making or certifying returns from any precinct does not conform to the requirements of law, the returns of the votes cast in that precinct shall nevertheless be canvassed if the returns are sufficiently explicit to enable the canvass board to determine how many votes were cast for each candidate, ballot question, or ballot issue.

**1-10-205. Corrections.** If the canvass board finds a clerical error or omission in the returns, the board shall consult with the election judges from whom the returns were received to resolve the discrepancies. The election judges shall submit to the canvass board any documentation for verification of the additions and corrections, and the canvass board shall make any additions and corrections required by the facts of the case. The canvass board may adjourn from day to day for the purpose of obtaining the corrections and additions.

coordinated by the county clerk and recorder.

1-10.5-104. Recount for nonpartisan elections not coordinated by the county clerk and recorder.

1-10.5-105. Notice of recount.

1-10.5-106. Request for recount by interested party -

definitions.

1-10.5-107. Canvass board to conduct recount.

1-10.5-108. Method of recount. (Repealed)

1-10.5-109. Challenge of recount.

1-10.5-110. Procedures for recount on direct recording electronic voting equipment. (Repealed)

**1-10.5-101. Recounts required - expenses.**

(1) (a) (Deleted by amendment, L. 2001, p. 1265, § 1, effective June 5, 2001.)

(b) A recount of any election contest shall be held if the difference between the highest number of votes cast in that election contest and the next highest number of votes cast in that election contest is less than or equal to one-half of one percent of the highest vote cast in that election contest. A recount shall occur only after the canvass board certifies the original vote count.

(2) Except as provided in section 1-10.5-106, any expenses incurred in conducting a recount in any political subdivision shall be paid by the entity that certified the candidate, ballot question, or ballot issue for the ballot. Members of the canvass board who assist in any recount shall receive the same fees authorized for counting judges in section 1-6-115.

**1-10.5-103. Recount for other offices, ballot issues, and ballot questions in an election coordinated by the county clerk and recorder.** In any election coordinated by the county clerk and recorder, if it appears, as evidenced by the official abstract of votes cast, that a recount is required for any office, ballot question, or ballot issue not included in section 1-10.5-102, the county clerk and recorder shall order a recount of the votes cast for the office, ballot question, or ballot issue. Any recount of the votes shall be completed no later than the thirtieth day after the election. A political subdivision that referred a ballot issue or ballot question to the electors may waive the automatic recount provisions of this section if the ballot issue or ballot question fails by giving written notice to the county clerk and recorder within fourteen days after the primary election or eighteen days after any other election.

**1-10.5-104. Recount for nonpartisan elections not coordinated by the county clerk and recorder.** If it appears, as evidenced by the abstract of votes cast that a recount is required for any office, ballot question, or ballot issue, the designated election official shall order a recount of the votes cast for the office, the ballot issue, or ballot question no later than the twenty-fifth day after the election. Any recount under this section shall be completed no later than the fortieth day after the election.

**1-10.5-105. Notice of recount.** Notice prior to the recount shall be given to all candidates and, in the case of a ballot issue or ballot question, any petition representative identified pursuant to section 1-40-113, any governing body, or any agent of an issue committee, if such committee is required to report contributions to the secretary of state pursuant to the "Fair Campaign Practices Act", article 45 of this title, that are affected by the result of the election. Notice shall be given by certified mail and by telephone, facsimile transmission, or personal service.

**1-10.5-106. Request for recount by interested party - definitions.** (1) As used in this section, "interested party" means the candidate who lost the election, the political party or political organization of such candidate, any petition representative identified pursuant to section 1-40-113 for a ballot issue or ballot question that did not pass at the election, the governing body that referred a ballot question or ballot issue to the electorate if such ballot question or ballot issue did not pass at the election, or the agent of an issue committee that is required to report contributions pursuant to the "Fair Campaign Practices Act", article 45 of this title, that either supported a ballot question or ballot issue that did not pass at the election or opposed a ballot question or ballot issue that passed at the election.

(2) Whenever a recount is not required, an interested party may submit a notarized written request for a recount at the expense of the interested party making the request. This request shall be filed with the secretary of state, the county clerk and recorder, the designated election official, or other governing body that originally certified the candidate, ballot question, or ballot issue for the ballot within twenty days after a primary election and within twenty-four days after any other election. Such election official shall notify the political subdivision within which the election was held no later than the day following receipt of the request. Before conducting the recount, the election official who will conduct the recount shall determine the cost of the recount within one day of receiving the request to recount, notify the interested party that requested the recount of the cost, and collect the costs of conducting the recount. If the request is filed with the secretary of state, the secretary of state shall determine the cost of the recount by adding the individual amounts determined by the political subdivisions conducting the recount. The interested party that requested the recount shall pay the cost of the recount by certified funds to the election official with whom the request for a recount was filed within one day of receiving the election official's cost determination. The funds shall be placed in escrow

for payment of all expenses incurred in the recount. If after the recount the result of the election is reversed in favor of the interested party that requested the recount or if the amended election count is such that a recount otherwise would have been required, the payment for expenses shall be refunded to the interested party that requested the recount. Any escrow amounts not refunded to the interested party that requested the recount shall be paid to the election officials who conducted the recount. Any recount of votes pursuant to this section shall be completed no later than the thirtieth day after the election.

#### **1-10.5-107. Canvass board to conduct**

**recount.** (1) Any county clerk and recorder or governing body required to conduct a recount shall arrange to have the recount made by the canvass board who officiated in certifying the official abstract of votes cast. If any member of the canvass board cannot participate in the recount, another person shall be appointed in the manner provided by law for appointment of the members of the original board.

(2) Any canvass board making a recount under the provisions of this section may employ assistants and clerks as necessary for the conduct of the recount.

(3) The canvass board may require the production of any documentary evidence regarding any vote cast or counted and may correct the abstract of votes cast in accordance with its findings based on the evidence presented.

(4) At the conclusion of the recount, the canvass board shall make the returns of all partisan, nonpartisan, ballot issue, and ballot question elections to the designated election official and provide a copy to the persons or groups requesting the recount or notified of the recount pursuant to sections 1-10.5-105 and 1-10.5-106. The canvass board shall meet and issue an amended abstract of votes cast for the office, ballot issue, or ballot question that is the subject of the recount and deliver it to the designated election official.

(5) The designated election official shall notify the governing body of the results of the recount.

**-10.5-109. Challenge of recount.** (1) (a) Any interested party that requested a recount of a county, state, national, or district office of state concern or any party to such recount that has reasonable grounds to believe that the recount is not being conducted in a fair, impartial, and uniform manner may apply to the district court of the city and county of Denver for an order requiring the county clerk and recorder to stop the recount and to give the secretary of state access to all pertinent election records used

in conducting the recount, and requiring the secretary of state to conduct the recount. The county clerk and recorder shall be an official observer during any recount conducted by the secretary of state.

(b) Any interested party that requested a recount of any other local office, ballot question, or ballot issue or any party to such recount that has reasonable grounds to believe that the designated election official is not conducting the recount in a fair, impartial, and uniform manner may apply to the district court for the political subdivision for an order requiring the designated election official to stop the recount and to give the appropriate official who will take over conducting the recount access to all pertinent election records, and requiring the appropriate official to conduct the recount. If the county clerk and recorder is not the designated election official, then the county clerk and recorder is the appropriate official to conduct the recount. If the county clerk and recorder is the designated election official, then the secretary of state is the appropriate official to conduct the recount. The designated election official shall be an official observer during any recount conducted pursuant to this subsection (1).

(2) All expenses incurred by the secretary of state in conducting a recount pursuant to subsection (1) of this section shall be paid from the state general fund. Expenses incurred prior to a court order requiring the secretary of state to conduct the recount shall be paid by the county or political subdivision conducting the recount.

#### **1-10.5-110. Procedures for recount on direct recording electronic voting equipment. (Repealed)**

### **ARTICLE 11**

#### **Certificates of Election and Election Contests**

##### **PART 1**

##### **TIE VOTES AND CERTIFICATES OF ELECTION**

1-11-102. Tie votes in nonpartisan elections.

1-11-102.5. Ballot issue and ballot question - majority required.

1-11-103. Certificates of election for nonpartisan, ballot issue, or ballot question elections.

1-11-106. Delivery of certified list of results.

##### **PART 2**

##### **ELECTION CONTESTS**

1-11-201. Causes of contest.

1-11-202. Who may contest election.

1-11-203.5. Contests concerning ballot order or ballot

- title - ballot issue or ballot question elections.
- 1-11-212. Contests for county and nonpartisan officers - ballot issues and ballot questions.
  - 1-11-212.5. Contests concerning bond elections.
  - 1-11-213. Rules for conducting contests in district court.
  - 1-11-214. Trial and appeals in contests for county and nonpartisan elections.
  - 1-11-215. Recount in contests for county and nonpartisan elections.
  - 1-11-216. Judgment in contests for county and nonpartisan elections.
  - 1-11-216.5. Judgment in election contests - creation of financial obligation.
  - 1-11-217. Costs of election contest.
  - 1-11-218. Violations by the governing body.

## PART 1

### TIE VOTES AND CERTIFICATES OF ELECTION

**1-11-102. Tie votes in nonpartisan elections.** If any two or more candidates tie for the highest number of votes for the same office and if there are not enough offices remaining for all the candidates, the board of canvassers shall determine by lot the person who shall be elected. Reasonable notice shall be given to the candidates who are involved of the time when the election will be determined.

**1-11-102.5. Ballot issue and ballot question - majority required.** If any ballot issue or ballot question is approved by less than a majority of the votes cast, the issue or question shall be considered to have failed.

**1-11-103. Certificates of election for nonpartisan, ballot issue, or ballot question elections.** (1) Except in the case of offices for which a recount is required, immediately after the final abstract of votes cast for each office has been prepared and certified, the designated election official shall notify the candidates of their election to office. After any required bond and oath is filed, the designated election official shall make a formal certificate of election for each person who was elected and shall deliver the formal certificate to that person.

(2) Except in the case of ballot issues or ballot questions for which a recount is required, immediately after the abstract of votes cast for each ballot issue or ballot question has been prepared and certified, the designated election official shall notify

the governing body of the political subdivision conducting the election and the petition representatives of a ballot issue or ballot question of the election result and shall make a certificate of the votes cast for and against each ballot issue and for and against each ballot question available for public inspection in the office of the designated election official for no less than ten days following the completion of the abstract of votes cast by the canvass board.

(3) The results of a special district election shall be certified to the division of local government within thirty days after the election as provided in section 32-1-104 (1), C.R.S. If an election is cancelled, the notice and a copy of the resolution of cancellation shall be filed with the division of local government.

## PART 2

### ELECTION CONTESTS

**1-11-201. Causes of contest.** (1) The election of any candidate to any office may be contested on any of the following grounds:

(a) That the candidate elected is not eligible to hold the office for which elected;

(b) That illegal votes were received or legal votes rejected at the polls in sufficient numbers to change the result of the election;

(c) That an election judge or canvass board has made an error in counting or declaring the result of an election that changed the result of the election;

(d) That an election judge, canvass board, or member of a canvass board has committed malconduct, fraud, or corruption that changed the result of the election; or

(e) That, for any reason, another candidate was legally elected to the office.

(2) For the purpose of this part 2, if the election or nomination of either the governor or lieutenant governor is found to be invalid for any reason, the finding shall not in any way be construed to invalidate the election or nomination of the other joint candidate.

(3) The result of any election to determine a ballot issue or ballot question may be contested on any of the following grounds:

(a) That illegal votes were received or legal votes were rejected at the polls in sufficient numbers to change the result of the election;

(b) That an election judge or canvass board has made an error in counting or declaring the result of an election that changed the result of the election; or

(c) That an election judge, canvass board, or member of a canvass board has committed misconduct, fraud, or corruption that changed the



result of the election.

(4) In addition to the grounds set forth in subsection (3) of this section, the result of any election to determine a ballot issue that includes approval of the creation of any debt or other financial obligation may be contested if the notice required by section 1-7-908 is not provided in accordance with that section or contains any material misstatement of the information required to be set forth in the notice.

**1-11-202. Who may contest election.** The election of any candidate or the results of an election on any ballot issue or ballot question may be contested by any eligible elector of the political subdivision.

**1-11-203.5. Contests concerning ballot order or ballot title - ballot issue or ballot question elections.**

(1) Except for petitions for rehearing pursuant to section 1-40-107, all election contests arising out of a ballot issue or ballot question election concerning the order on the ballot or the form or content of any ballot title shall be summarily adjudicated by the district court sitting for the political subdivision within which the contest arises prior to the election. Except as otherwise provided in this section, the style and form of process, the manner of service of process and papers, the fees of officers, and judgment for costs shall be according to the rules and practice of the district court. The court that first acquires jurisdiction of any contest shall have exclusive jurisdiction. Before the district court is required to take jurisdiction of the contest, the contestor shall file with the clerk of the court a bond, with sureties, running to the contestee and conditioned to pay all costs, including attorneys fees, in case of failure to maintain the contest. The judge shall determine the sufficiency of the bond and, if sufficient, approve it.

(2) Every such contest shall be commenced by verified petition filed by the contestor to the proper court, setting forth the grounds for the contest and a proposed alternative order for the ballot or alternative form or content for the contested ballot title. The contestee shall be the state in the case of a statewide ballot issue or statewide ballot question or the political subdivision that proposed to place the contested ballot issue or ballot question on the ballot, as applicable, and the petition representative of an initiated measure. The petition shall be filed and a copy served on the contestee within five days after the title of the ballot issue or ballot question is set by the state or political subdivision and for contests concerning the order of a ballot, within five days after the ballot order is set by the county clerk and recorder and not thereafter. The designated election official or other authorized official, on behalf of the contestee and the proponent of an initiated measure,

shall answer under oath within five days after service. Upon the expiration of the time for the answer, and following at least twenty-four hours advance notice of the date, time, and place of the adjudication given by the clerk of the court by letter, telephone, or fax to the contestor and contestee, the court having jurisdiction of the contest shall immediately set the matter for trial on the merits and shall adjudicate it within ten days of the date of filing of the answer by the contestee or expiration of the time for the answer.

(3) If the court finds that the order of the ballot or the form or content of the ballot title does not conform to the requirements of the state constitution and statutes, the court shall provide in its order the text of the corrected ballot title or the corrected order of the measures to be placed upon the ballot and shall award costs and reasonable attorneys fees to the contestor. If the court finds that the order of the ballot and the form and content of the ballot title conform to the requirements of the state constitution and statutes and further finds that the suit was frivolous as provided in article 17 of title 13, C.R.S., the court shall provide in its order an award of costs and reasonable attorneys fees to the contestee state or political subdivision and to the proponent of an initiated measure.

(4) Following entry of the order of the district court pursuant to this section, the ballot title shall be certified by the state or political subdivision to the county clerk and recorder, to be voted upon at the election as so certified unless the election on the ballot issue or ballot question is canceled in the manner provided by law. Notwithstanding any other provision of law, any appeal from an order of the district court entered pursuant to this section shall be taken directly to the supreme court, which shall decide the appeal as expeditiously as practicable.

(5) The procedure provided in this section shall be the exclusive procedure to contest or otherwise challenge the order of the ballot or the form or content of the ballot title.

(6) This section shall not apply to a ballot title for a statewide ballot issue or statewide ballot question that is set by a title setting board or court as provided by law.

**1-11-212. Contests for county and nonpartisan officers - ballot issues and ballot questions.**

Contested election cases of county and nonpartisan officers and ballot issues and ballot questions shall be tried and decided by the district court for the county in which the contest arises. If a political subdivision is located in more than one county, the district court of either county may take jurisdiction.

**1-11-212.5. Contests concerning bond**

**elections.** Except as otherwise provided in this part 2, the result of an election on a ballot issue seeking approval to create any debt or other financial obligation may be contested based on the grounds set forth in section 1-11-201 (4) in the manner provided by this part 2 for contesting the result of any other election.

**1-11-213. Rules for conducting contests in district court.** (1) The style and form of process, the manner of service of process and papers, the fees of officers, and judgment for costs and execution shall be according to the rules and practice of the district court.

(2) Change of venue may be taken from any district court for any cause in which changes of venue might be taken in civil or criminal actions. The decisions of any district court are subject to appellate review as provided by law and the Colorado appellate rules.

(3) Before the district court is required to take jurisdiction of the contest, the contestor shall file with the clerk of the court a bond, with sureties, running to the contestee and conditioned to pay all costs in case of failure to maintain the contest. The judge shall determine the sufficiency of the bond and, if it is sufficient, approve it.

(4) The contestor, within ten days after the official survey of returns has been filed with the designated election official, shall file in the office of the clerk of the district court a written statement of the intention to contest the election, setting forth the name of the contestor, that the contestor is an eligible elector of the political subdivision, the name of the contestee, the office or ballot issue or ballot question being contested, the time of the election, and the particular grounds for the contest. The statement shall be verified upon information and belief by the affidavit of the contestor or of an eligible elector of the political subdivision. If the contest is based upon a ballot issue or ballot question, the political subdivision or subdivisions for which the ballot issue or ballot question was decided shall be named as a contestee. If a written statement of intent to contest the election is filed more than ten days after the completion of the official survey of returns, no court shall have jurisdiction over the contest.

(5) The clerk of the district court shall then issue a summons in the ordinary form, in which the contestor shall be named as plaintiff and the contestee as defendant, stating the court to which the action is being brought, the political subdivision for which the contest is filed, and a brief statement of the grounds for contest as set forth in the contestor's statement. The summons shall be served upon the contestee and political subdivision in the same manner as other district court summonses are served

in this state, within ten days after the statement of intention is filed.

(6) The contestee, within ten days after the service of the summons, shall file an answer with the clerk of court, which admits or specifically denies each allegation of the statement and asserts any counterstatement on which the contestee relies as entitling him or her to the office to which elected.

(7) If a contestor alleges the reception of illegal votes or the rejection of legal votes as the grounds for the contest, a list of the eligible electors who so voted or offered to vote shall be set forth in the statement of the contestor and likewise in the answer of contestee if the same grounds are alleged in the counterstatement.

(8) When the answer of the contestee contains a new matter constituting a counterstatement, within ten days after the answer is filed, the contestor shall file a reply with the clerk of court admitting or specifically denying, under oath, each allegation contained in the counterstatement.

**1-11-214. Trial and appeals in contests for county and nonpartisan elections.** (1) Immediately after the issue is joined, the district judge shall set the date for trial, which shall be not more than twenty days nor less than ten days after the issue was joined. The trial shall take precedence over all other business of the court. Any depositions to be used in the trial may be taken upon four days' notice before any officer authorized to take depositions. The testimony at trial may be made orally or by depositions. The district judge shall cause the testimony to be taken in full and filed in the cause. The trial shall be conducted according to district court rules and practice.

(2) An appeal from the judgment may be taken to the supreme court, in the same manner as other cases tried in the district court. The appeal shall be filed, the bill of exceptions settled, the bond for costs executed and filed, and the record transmitted to the clerk of the supreme court within twenty days from the date the judgment is entered. The supreme court shall advance the case to the head of the calendar and shall hear and determine the matter with all reasonable dispatch.

**1-11-215. Recount in contests for county and nonpartisan elections.** If, at trial of any election contest as provided in section 1-11-214 and this section, the statement or counterstatement alleges an error in the abstract of votes cast sufficient to change the result, the district judge has the power to order a recount of the ballots cast or the votes tabulated in the precincts in which the alleged error was made. The court may also require the production before it of witnesses, documents, records, and other evidence as may have or contain

information regarding the legality of any vote cast or counted for either of the contesting candidates or a ballot issue or ballot question, or concerning the correct number of votes cast for a candidate or a ballot issue or ballot question. The court may order the returns corrected in accordance with the evidence presented and the court's findings.

**1-11-216. Judgment in contests for county and nonpartisan elections.** The district court shall pronounce judgment on whether the contestee or any other person was legally elected to the contested office or on whether the ballot issue or ballot question was enacted. The court's judgment declaring a person elected entitles that person to take office when the term of office begins, upon proper qualification. If the judgment is against a contestee who has received a certificate, the judgment annuls the certificate. If the court finds that no person was legally elected, the judgment shall set aside the election and declare a vacancy in the office contested.

**1-11-216.5. Judgment in election contests - creation of financial obligation.** The district court shall pronounce judgment on whether the approval of a ballot issue to create any debt or other financial obligation should be set aside based on the grounds set forth in section 1-11-201 (4).

**1-11-217. Costs of election contest.** (1) A judgment against the contestor pursuant to the provisions of sections 1-11-211 and 1-11-212, concerning election of a candidate or determination of a ballot question, shall provide that the contestor is liable for all fees incurred in the contested election by all contestees, including reasonable costs and attorney fees.

(2) A judgment against the contestor pursuant to the provisions of sections 1-11-211 and 1-11-212, concerning the determination of a ballot issue, or pursuant to section 1-11-212.5, concerning the determination of a ballot issue that includes approval of the creation of any debt or other financial obligation, shall provide that the contestor is liable for all fees incurred in the contested election by all contestees, including reasonable costs and attorneys fees, but a judgment for costs and fees shall be awarded in favor of the state or a political subdivision only if the suit is ruled frivolous, as provided in article 17 of title 13, C.R.S.

**1-11-218. Violations by the governing body.** (1) If the results of any county or nonpartisan election are disallowed as the result of a proceeding held pursuant to sections 1-11-211 and 1-11-212, the elector who instituted the proceedings may

commence a civil action to recover costs and reasonable attorney fees from the governing body.

(2) If the result of any election approving the creation of any debt or other financial obligation is set aside as the result of a proceeding held pursuant to this part 2, the elector who instituted the proceeding may commence a civil action to recover costs and reasonable attorney fees from the governing body.

## **ARTICLE 12**

### **Recall and Vacancies in Office**

#### **PART 1**

##### **RECALL FROM OFFICE**

- 1-12-101. Elected officers subject to recall.
- 1-12-102. Limitations.
- 1-12-103. Petition for recall.
- 1-12-106. Signatures required for nonpartisan officers.
- 1-12-107. Designated election officials.
- 1-12-108. Petition requirements.
- 1-12-109. Resignation.
- 1-12-110. Call for election.
- 1-12-111. Date of election.
- 1-12-112. Ballots.
- 1-12-113. Conduct of election.
- 1-12-114. Absentee ballots.
- 1-12-115. Write-in candidates.
- 1-12-116. Sufficiency of the recall.
- 1-12-117. Nomination of successor.
- 1-12-118. Election of successor.
- 1-12-119. Canvass of votes.
- 1-12-120. Cost of recall election.
- 1-12-121. Special provisions.
- 1-12-122. Recalls subject to "Fair Campaign Practices Act".

#### **PART 2**

##### **VACANCIES IN OFFICE**

- 1-12-207. Vacancies on nonpartisan boards.
- 1-12-208. Unexpired terms less than ninety days.
- 1-12-209. Terms of persons filling vacancies.
- 1-12-210. Certification of appointment.

#### **PART 1**

##### **RECALL FROM OFFICE**

**1-12-101. Elected officers subject to recall.** Every elected officer of this state or any political subdivision thereof is subject to recall from office at any time by the eligible electors entitled to vote for a successor to the incumbent. The recall of any state officer shall be governed by the recall of state officers procedure set forth in this article.

**1-12-102. Limitations.** (1) No recall petition shall be circulated or filed against any elected officer until the officer has actually held office for at least six months following the last election; except that a recall petition may be filed against any member of the general assembly at any time after the fifth day following the convening and organizing of the general assembly after the election.

(2) After one recall petition and election, no further petition may be filed against the same state or county officer during the term for which the officer was elected, unless the petitioners signing the petition equal fifty percent of the votes cast at the last preceding general election for all of the candidates for the office held by the officer.

(3) After one recall petition and election, no further petition shall be filed against the same nonpartisan officer during the term for which the officer was elected, unless the petitioners signing the petition equal one and one-half times the number of signatures required on the first petition filed against the same officer, until one year has elapsed from the date of the previous recall election.

(4) No recall petition shall be circulated or filed against any elected officer whose term of office will expire within six months.

**1-12-103. Petition for recall.** Eligible electors of a political subdivision may initiate the recall of an elected official by signing a petition which demands the election of a successor to the officer named in the petition. The petition shall contain a general statement, consisting of two hundred words or less, stating the ground or grounds on which the recall is sought. The statement is for the information of the electors who shall be the sole and exclusive judges of the legality, reasonableness, and sufficiency of the ground or grounds assigned for the recall. The ground or grounds shall not be open to review.

**1-12-106. Signatures required for nonpartisan officers.** A petition to recall any other nonpartisan officer shall be signed by three hundred eligible electors of the political subdivision who are entitled to vote for a successor to the incumbent sought to be recalled or forty percent of the eligible electors of the political subdivision at the time the form of the petition is approved under section 1-12-108 (4), whichever number is less.

**1-12-107. Designated election officials.** (1) For state recall elections, the petition shall be filed with the secretary of state who shall certify the sufficiency of the petition to the governor who shall set the date for the election. The election shall be conducted by the appropriate county clerk and recorder in the

manner provided in this article for state elections.

(2) For county recall elections, the petition shall be filed with the county clerk and recorder who shall certify the sufficiency of the petition and call and conduct the election.

(3) For school board recall elections, the petition shall be filed with the county clerk and recorder in which the school district's administrative offices are located. The clerk and recorder of the county shall certify the sufficiency of the petition and call and conduct the election.

(4) For all other nonpartisan elections, the petition shall be filed with the district court in the county in which the political subdivision was organized. The court shall then appoint a designated election official to certify the sufficiency of the petition and call and conduct the election.

**1-12-108. Petition requirements.** (1) The petition shall be prepared and circulated pursuant to this part 1. No signature shall be counted that was placed on a petition prior to approval of the petition by the designated election official or more than sixty days after the designated election official's approval of the petition.

(2) (a) The petition for the recall of an elected official may consist of one or more sheets, to be fastened together in the form of one petition section, but each sheet shall contain the same heading and each petition section shall contain one sworn affidavit of the circulator. No petition shall contain the name of more than one person proposed to be recalled from office.

(b) The petition for recall may be circulated and signed in sections, and each section shall contain a full and accurate copy of the title and text of the petition. Each petition shall designate, by name and address, three persons, referred to in this section as the "committee", that shall represent the signers in all matters affecting the petition.

(3) (a) The signatures to a recall petition need not all be appended to one paper, but no petition shall be legal that does not contain the requisite number of names of eligible electors whose names do not appear on any other petition previously filed for the recall of the same person under the provisions of this section.

(b) At the top of each page shall be printed, in bold-faced type, the following:

WARNING:

IT IS AGAINST THE LAW:

For anyone to sign this petition with any name other than one's own or to knowingly sign one's name more than once for the same measure or to knowingly sign the petition when

not a registered elector.

Do not sign this petition unless you are an eligible elector. To be an eligible elector you must be registered to vote and eligible to vote in (name of political subdivision) elections.

Do not sign this petition unless you have read or have had read to you the proposed recall measure in its entirety and understand its meaning.

(c) Directly following the warning in paragraph (b) of this subsection (3) shall be printed in bold-faced type the following:

Petition to recall (name of person sought to be recalled) from the office of (title of office).

(4) No petition shall be circulated until it has been approved as meeting the requirements of this subsection (4) as to form. The official with whom the petitions are to be filed pursuant to section 1-12-107 shall approve or disapprove a petition as to form by the close of the second business day following submission of the proposed petition. The official shall mail written notice of the action taken to the person who submitted the petition and to the officer whom the petition seeks to recall on the day the action is taken.

(5) (a) Every petition shall be signed only by eligible electors.

(b) Unless physically unable, all electors shall sign their own signature and shall print their names, respective residence addresses, including the street number and name, the city or town, the county, and the date of signature. Each signature on a petition shall be made, to the extent possible, in black ink.

(c) Any person, except a circulator, may assist an elector who is physically unable to sign the petition in completing the information on the petition as required by law. On the petition immediately following the name of the disabled elector, the person providing assistance shall both sign and state that the assistance was given to the disabled elector.

(6) (a) Only an eligible elector may circulate a recall petition.

(b) To each petition section shall be attached a signed, notarized, and dated affidavit executed by the eligible elector who circulated the petition section, which shall include: The affiant's printed name, the address at which the affiant resides, including the street name and number, the

city or town, the county, and the date of signature; a statement that the affiant was an eligible elector at the time the section of the petition was circulated and signed by the listed electors; a statement that the affiant circulated the section of the petition; a statement that each signature on the petition section is the signature of the person whose name it purports to be; a statement that to the best of the affiant's knowledge and belief each of the persons signing the petition section was, at the time of signing, an eligible elector; and a statement that the affiant has not paid or will not in the future pay and that the affiant believes that no other person has paid or will pay, directly or indirectly, any money or other thing of value to any signer for the purpose of inducing or causing the signer to sign the petition.

(c) The designated election official shall not accept for filing any section of a petition that does not have attached to it the notarized affidavit required by this section. Any signature added to a section of a petition after the affidavit has been executed is invalid.

(7) (Deleted by amendment, L. 97, p. 1062, § 5, effective May 27, 1997.)

(7.5) The petition may be filed at any time during the sixty-day period after the designated election official's approval of the petition form as specified in subsection (1) of this section. The committee shall file all sections of a petition simultaneously, and any section of a petition submitted after the petition is filed shall be invalid and of no force and effect.

(8) (a) Upon filing, the designated election official for the political subdivision shall review all petition information and verify the information against the registration records, and, where applicable, the county assessor's records. The secretary of state shall establish guidelines for verifying petition entries.

(b) Any disassembly of a section of the petition prior to filing that has the effect of separating the affidavits from the signatures shall render that section of the petition invalid and of no force and effect.

(c) After review, and no later than ten working days after the initial filing of the petition, the designated election official shall notify the committee and the incumbent of the number of valid signatures and whether the petition appears to be sufficient or insufficient. Upon determining that the petition is sufficient and after the time for protest has passed, the designated election official shall certify the recall question to the ballot and, if the election is a coordinated election, notify the coordinated election official.

(9) (a) A recall petition that has been verified by the designated election official shall be held to be sufficient unless a protest in writing under oath is filed

in the office of the designated election official by an eligible elector within fifteen days after the designated election official has determined the sufficiency or insufficiency of the petition under paragraph (c) of subsection (8) of this section. The petition shall set forth specific grounds for the protest. Grounds include but are not limited to failure of any portion of a petition or circulator affidavit to meet the requirements of this article or any conduct on the part of petition circulators that substantially misleads persons signing the petition. The designated election official shall forthwith mail a copy of the protest to the committee named in the petition as representing the signers, together with a notice fixing a time for hearing the protest not less than five nor more than ten days after the notice is mailed. Every hearing shall be before the designated election official with whom the protest is filed or before a district judge sitting in that county if the designated election official is the subject of the recall. The testimony in every hearing shall be under oath. The hearing shall be summary and not subject to delay and shall be concluded within thirty days after the petition is filed, and the result shall be forthwith certified to the committee.

(b) The party filing a protest has the burden of sustaining the protest by a preponderance of the evidence. The decision upon matters of substance is open to review, if prompt application is made, as provided in section 1-1-113. The remedy in all cases shall be summary, and the decision of any court having jurisdiction shall be final and not subject to review by any other court; except that the supreme court, in the exercise of its discretion, may review any judicial proceeding in a summary way.

(c) A petition for recall may be amended once at any time within sixty days from the date the petition form was approved by the designated election official under subsection (4) of this section.

(d) (I) Any signer may request that his or her name be stricken from the petition at any time within the sixty-day period prior to the date the petition is deemed sufficient and the time for protest has passed by filing a written request that his or her signature be stricken with the designated election official and delivering a copy of such request to at least one member of the committee. If such request is delivered to the member of the committee or the election official through the United States mails, it shall be deemed delivered to the committee or the election official on the date shown by the cancellation mark on the envelope containing the request received by the member or the election official. If the request is delivered to the member of the committee or the election official in any other manner, it shall be deemed delivered to the committee or the election official on the date of delivery and stamped receipt by

the election official-.

(II) If the designated election official receives a written request filed in accordance with this paragraph (d) after the petition is filed but before the petition is deemed sufficient and the time for protest has passed, the election official shall strike the signature of the signer who filed the request. If the election official receives such a written request before the petition is filed, the election official shall strike the signature of the signer who filed the request promptly upon the filing of the petition.

(10) Any person who willfully destroys, defaces, mutilates, or suppresses a petition, or who willfully neglects to file or delays delivery of a petition, or who conceals or removes a petition from the possession of the person authorized by law to have custody of it, or who aids, counsels, procures, or assists any person in doing any of the above acts is guilty of a misdemeanor and, upon conviction thereof, shall be punished as provided in section 1-13-111.

**1-12-109. Resignation.** If an officer whose recall is sought offers a resignation it shall be accepted and the vacancy caused by the resignation shall be filled as provided by law. The person appointed to fill the vacancy caused by the resignation shall hold the office only until the person elected at the recall election is qualified.

**1-12-110. Call for election.** (1) If the officer whose recall is sought does not resign within five days after the sufficiency of the recall petition has been sustained, the designated election official shall make notice by publication for the holding of a recall election, and the officers charged by law with election duties shall make necessary arrangements for the conduct of the election. The election shall be conducted pursuant to the provisions of this title.

(2) If the officer whose recall is sought resigns at any time after the filing of the certification of election question for the ballot, the recall election shall be called and held notwithstanding the resignation.

**1-12-111. Date of election.** If the recall petition is held to be sufficient under section 1-12-108 (8) (c) and after the time for protest has passed, the officer with whom the recall petition was filed, without delay, shall submit the petition, together with a certificate of its sufficiency, to the appropriate governing body. The governing body shall set a date for the recall election not less than forty-five nor more than seventy-five days from the date of determination of sufficiency; however, if a general election is to be held within ninety days after the determination of sufficiency, the recall election shall be held as a part of the general election.

**1-12-112. Ballots.** (1) In addition to all other requirements of law, the official ballot shall contain a statement consisting of two hundred words or less stating the reasons set forth in the petition for demanding the officer's recall. The officer sought to be recalled may submit a statement of justification of the officer's course in conduct in three hundred words or less to the designated election official. The officer shall submit any such statement no later than ten working days after the date of issuance of the certificate of sufficiency by the designated election official. The official ballot shall contain such statement of justification if submitted pursuant to this subsection (1).

(2) Ballots for the election of a successor to the officer sought to be recalled shall contain the candidates' names which shall be placed on the ballot by lot, regardless of the method of nomination.

**1-12-113. Conduct of election.** The recall election and election of a successor shall be conducted according to the provisions of articles 1 to 13 of this title.

**1-12-114. Absentee ballots.** Applications for absentee ballots shall be made available by the appropriate designated election officials no later than twenty-four hours after the date for the recall election is set. Absentee ballots shall be available no later than thirty days before the recall election. All other provisions of article 8 of this title shall apply to the absentee ballot process.

**1-12-115. Write-in candidates.** No write-in vote for any office shall be counted unless an affidavit of intent has been filed indicating that the person desires the office and is legally qualified to assume the duties of the office if elected. The affidavit of intent shall be filed with the designated election official not later than the date required for filing nominating petitions pursuant to section 1-12-117.

**1-12-116. Sufficiency of the recall.** If a majority of those voting on the question of the recall of any incumbent from office vote "no", the incumbent shall continue in office; if a majority vote "yes", the incumbent shall be removed from office upon the qualification of the successor.

**1-12-117. Nomination of successor.** A candidate to succeed the officer sought to be recalled shall meet the qualifications of a party candidate or an unaffiliated candidate as provided in part 8 of article 4 of this title and shall be nominated by a political party petition or an unaffiliated petition as provided in part 9 of article 4 of this title. Nomination petitions and

affidavits of intent to run as a write-in candidate shall be filed no later than fifteen days after the date on which the appropriate governing body convenes and sets the election date. Every petition shall be signed by the number of eligible electors required for the office in part 8 of article 4 of this title or as otherwise provided by law. The name of the officer who was sought to be recalled shall not be eligible as a candidate in the election to fill any vacancy resulting from the recall election.

**1-12-118. Election of successor.** (1) The election of a successor shall be held at the same time as the recall election. The names of those persons nominated as candidates to succeed the person sought to be recalled shall appear on the ballot; but, no vote cast shall be counted for any candidate for the office unless the voter also voted for or against the recall of the person sought to be recalled. The name of the person against whom the petition is filed shall not appear on the ballot as a candidate for office.

(2) (Deleted by amendment, L. 95, p. 850, § 77, effective July 1, 1995.)

**1-12-119. Canvass of votes.** (1) For the recall of a partisan officer, the canvass board shall be composed of one representative from each major political party and the county clerk and recorder. For the recall of a nonpartisan officer, the canvass board shall be composed of the designated election official, one member of the governing body, and one eligible elector of the political subdivision.

(2) The canvass board shall complete an abstract of votes cast no later than the day following the recall election. For state elections, the canvass board shall contact the secretary of state on election night with the unofficial count. For county and all other elections, the canvass board shall provide the governing body with the unofficial count at the opening of business hours on the day following the recall election.

(3) The certified abstract of votes cast shall be sent by certified mail or hand delivered to the secretary of state for state elections and to the governing body for county and all other elections no later than the close of business on the fifth day after the recall election.

(4) If the majority of those voting on the recall question voted "yes", upon receipt of the certified abstract of votes cast, the designated election official shall issue a certificate of election to the successor candidate who received the highest number of votes. A copy of the certificate shall be transmitted by the secretary of state to the appropriate house of the general assembly for recall elections concerning the general assembly and to the

governor for the recall of all other elections of state officers. For all other recall elections, a copy of the certificate shall be transmitted to the governing body of the political subdivision.

**1-12-120. Cost of recall election.** (1) If at any recall election for a state office the incumbent whose recall is sought is not recalled, the incumbent shall be repaid from the state treasury any money authorized by this article which the incumbent actually expended as an expense of the recall election. In no event shall the sum repaid be greater than an amount equal to ten cents per voter. The general assembly shall provide an appropriation for state recall elections.

(2) If at any recall election for a county or local government office the incumbent whose recall is sought is not recalled, the governing body shall authorize a resolution for repayment from the general fund of the political subdivision any money authorized to be repaid to the incumbent by this article which the incumbent actually expended as an expense of the election. In no event shall the sum repaid exceed forty cents per eligible elector as defined in section 1-1-104 (16), subject to a maximum repayment of ten thousand dollars.

(3) Authorized expenses shall include, but are not limited to, moneys spent in challenging the sufficiency of the recall petition and in presenting to the electors the official position of the incumbent, including campaign literature, advertising, and maintaining campaign headquarters.

(4) Unauthorized expenses shall include, but are not limited to: Moneys spent on challenges and court actions not pertaining to the sufficiency of the recall petition; personal expenses for meals; lodging and mileage for the incumbent; costs of maintaining a campaign staff and associated expenses; reimbursement for expenses incurred by a campaign committee which has solicited contributions; reimbursement of any kind for employees in the incumbent's office; and all expenses incurred prior to the filing of the recall petition.

(5) The incumbent shall file a complete and detailed request for reimbursement within sixty days after the date of the recall election with the governing body of the political subdivision holding the recall election, who shall then review the reimbursement request for appropriateness under subsection (2) of this section and shall refer the request, with recommendations, to the general assembly at its next general session for state recall elections or to the treasurer of the governing body for all other elections within thirty days after receipt of the request for reimbursement.

## **PART 2 VACANCIES IN OFFICE**

**1-12-207. Vacancies on nonpartisan boards.** (1) Any vacancy on a nonpartisan board shall be filled by appointment by the remaining director or directors. The appointee shall meet all of the qualifications for holding the office. The appointee shall serve until the next regular election, at which time any remaining unexpired portion of the term shall be filled by election. If the board fails, neglects, or refuses to fill any vacancy within sixty days after it occurs, the board of county commissioners of the county in which the organizational petition is filed shall fill the vacancy.

(2) If there are no duly elected directors and if the failure to appoint a new board will result in the interruption of services that are being provided by the district, then the board of county commissioners of the county in which the organizational petition is filed may appoint all directors. Any board appointed pursuant to this subsection (2) shall call a special election within six months after its appointment.

**1-12-208. Unexpired terms less than ninety days.** No person shall be elected to fill a vacancy in an elective office when the unexpired term is, at the time of the election, less than ninety days. In such case, the person appointed to fill the vacancy shall continue to hold the office for the remainder of the unexpired term and until the successor elected at the election is duly qualified.

**1-12-210. Certification of appointment.** All appointments under this article shall be evidenced by an appropriate entry in the minutes of the meeting of the governing board, and the appointing body shall cause a notice of appointment and the oath of office to be delivered to the person appointed. A duplicate of each notice of appointment, an acceptance of appointment, and the mailing address of the person appointed shall be kept as a permanent record by the appointing body and forwarded to any other appropriate official.

## **ARTICLE 13 Election Offenses**

### **PART 1 OFFENSES - GENERAL PROVISIONS**

- 1-13-101. District attorney or attorney general to prosecute.
- 1-13-102. Sufficiency of complaint - judicial notice.
- 1-13-103. Immunity of witness from prosecution.
- 1-13-104. Perjury.
- 1-13-105. False certificates by officers.
- 1-13-106. Forgery.
- 1-13-107. Violation of duty.
- 1-13-108. Anonymous statements concerning



- 1-13-109. candidates or issues. (Repealed)  
False or reckless statements relating to candidates or questions submitted to electors - penalties - definitions.
- 1-13-110. Wagers with electors.
- 1-13-111. Penalties for election offenses.
- 1-13-112. Offenses relating to mail ballots.
- 1-13-113. Interference with distribution of election material.
- 1-13-114. Failure to comply with requirements of secretary of state.

#### **PART 4 OFFENSES - ACCESS TO BALLOT BY CANDIDATE**

- 1-13-401. Bribery of petition signers.
- 1-13-402. Tampering with nomination papers - nomination petitions.
- 1-13-403. Defacing of petitions other than nominating petitions.

#### **PART 5 (Reserved)**

#### **PART 6 OFFENSES - NOTICE AND PREPARATION FOR ELECTIONS**

- 1-13-601. Tampering with notices or supplies.

#### **PART 7 OFFENSES - CONDUCT OF ELECTIONS**

- 1-13-701. Interference with election official.
- 1-13-702. Interfering with watcher.
- 1-13-703. Tampering with registration book, registration list, or pollbook.
- 1-13-704. Unlawfully refusing ballot or permitting to vote.
- 1-13-705. Personating elector.
- 1-13-706. Delivering and receiving ballots at polls.
- 1-13-707. Inducing defective ballot.
- 1-13-708. Tampering with voting equipment.
- 1-13-708.5. Elected officials not to handle electronic or electromechanical voting equipment or devices.
- 1-13-709. Voting in wrong precinct.
- 1-13-709.5. Residence - false information - penalty.
- 1-13-710. Voting twice - penalty.
- 1-13-711. Interference with voter while voting.
- 1-13-712. Disclosing or identifying vote.
- 1-13-713. Intimidation.

- 1-13-714. Electioneering - removing and return of ballot.
- 1-13-715. Liquor in or near polling place.
- 1-13-716. Destroying, removing, or delaying delivery of election records.
- 1-13-717. Penalty for destruction of supplies.
- 1-13-718. Release of information concerning count.
- 1-13-719. Employer's unlawful acts.
- 1-13-720. Unlawfully giving or promising money or employment.
- 1-13-721. Receipt of money or jobs.
- 1-13-722. Defacing or removing abstract of votes.
- 1-13-723. Penalty for neglect of duty - destruction of ballots - breaking seal.

#### **PART 8 OFFENSES - ABSENTEE VOTING AND VOTING BY NEW RESIDENTS**

- 1-13-801. Mailing other materials with absentee voter's ballot.
- 1-13-802. Absentee voter applications and deliveries outside county clerk and recorder's office.
- 1-13-803. Offenses relating to absentee voting.

#### **PART 9 (Reserved)**

#### **PART 1 OFFENSES - GENERAL PROVISIONS**

**1-13-101. District attorney or attorney general to prosecute.** (1) Any person may file an affidavit with the district attorney stating the name of any person who has violated any of the provisions of this code and stating the facts which constitute the alleged offense. Upon the filing of such affidavit, the district attorney shall forthwith investigate, and, if reasonable grounds appear therefor, he shall prosecute the violator.

(2) The attorney general shall have equal power with district attorneys to file and prosecute informations or complaints against any persons for violating any of the provisions of this code.

**1-13-102. Sufficiency of complaint - judicial notice.** Irregularities or defects in the mode of calling, giving notice of, convening, holding, or conducting any general, primary, or congressional vacancy election authorized by law constitute no defense to a prosecution for a violation of this code. When an offense is committed in relation to any general,

primary, or congressional vacancy election, an indictment, information, or complaint for such offense is sufficient if it alleges that such election was authorized by law without stating the call or notice of the election, the names of the judges holding such election, or the names of the persons voted for at such election. Judicial notice shall be taken of the holding of any general, primary, or congressional vacancy election.

**1-13-103. Immunity of witness from prosecution.** Any person violating any of the provisions of this code is a competent witness against any other violator and may be compelled to attend and testify at any trial, hearing, proceeding, or investigation in the same manner as other persons; but the testimony so given shall not be used in any prosecution or proceeding, civil or criminal, against the person so testifying, except for perjury in giving such testimony. A person so testifying shall not thereafter be liable to indictment, prosecution, or punishment for the offense with reference to which his testimony was given and may plead or prove the giving of testimony accordingly in bar of such indictment or prosecution.

**1-13-104. Perjury.** Any person, having taken any oath or made any affirmation required by this code, who swears or affirms willfully, corruptly, and falsely in a matter material to the issue or point in question or who suborns any other person to swear or affirm as aforesaid commits perjury in the second degree as set forth in section 18-8-503, C.R.S., and shall be punished as provided in section 18-1.3-501, C.R.S.

**1-13-105. False certificates by officers.** Any notary public or any officer authorized by law to administer oaths who knowingly makes a false certificate in regard to a matter connected with an election held under the laws of this state commits a class 1 misdemeanor and shall be punished as provided in section 18-1.3-501, C.R.S.

**1-13-106. Forgery.** Any person who falsely makes, alters, forges, or counterfeits any ballot before or after it has been cast, or who forges any name of a person as a signer or witness to a petition or nomination paper, or who forges any letter of acceptance, declination, or withdrawal, or who forges the name of a registered elector to an absentee voter's ballot commits forgery as set forth in section 18-5-102, C.R.S., and shall be punished as provided in section 18-1.3-401, C.R.S.

**1-13-107. Violation of duty.** Any public officer, election official, or other person upon whom any duty is imposed by this code who violates, neglects, or

fails to perform such duty or is guilty of corrupt conduct in the discharge of the same or any notary public or other officer authorized by law to administer oaths who administers any oath knowing it to be false or who knowingly makes a false certificate in regard to a matter connected with any election provided by law is guilty of a misdemeanor and, upon conviction thereof, shall be punished as provided in section 1-13-111.

**1-13-108. Anonymous statements concerning candidates or issues.** (Repealed)

**1-13-109. False or reckless statements relating to candidates or questions submitted to electors - penalties - definitions.** (1) (a) No person shall knowingly make, publish, broadcast, or circulate or cause to be made, published, broadcasted, or circulated in any letter, circular, advertisement, or poster or in any other communication any false statement designed to affect the vote on any issue submitted to the electors at any election or relating to any candidate for election to public office.

(b) Any person who violates any provision of paragraph (a) of this subsection (1) commits a class 1 misdemeanor and, upon conviction thereof, shall be punished as provided in section 18-1.3-501, C.R.S.

(2) (a) No person shall recklessly make, publish, broadcast, or circulate or cause to be made, published, broadcasted, or circulated in any letter, circular, advertisement, or poster or in any other communication any false statement designed to affect the vote on any issue submitted to the electors at any election or relating to any candidate for election to public office. Notwithstanding any other provision of law, for purposes of this subsection (2), a person acts "recklessly" when he or she acts in conscious disregard of the truth or falsity of the statement made, published, broadcasted, or circulated.

(b) Any person who violates any provision of paragraph (a) of this subsection (2) commits a class 2 misdemeanor and, upon conviction thereof, shall be punished as provided in section 18-1.3-501, C.R.S.

(3) For purposes of this section, "person" means any natural person, partnership, committee, association, corporation, labor organization, political party, or other organization or group of persons, including a group organized under section 527 of the internal revenue code.

**1-13-110. Wagers with electors.** It is unlawful for any person, including any candidate for election to public office, before or during any election provided by law, to make any bet or wager with an elector, or take a share or interest in, or in any manner become

a party to, any such bet or wager, or provide or agree to provide any money to be used by another in making such bet or wager upon any event or contingency arising out of such election. Each such offense is a misdemeanor, and, upon conviction thereof, the offender shall be punished as provided in section 1-13-111.

**1-13-111. Penalties for election offenses.** In all cases where an offense is denominated by this code as being a misdemeanor and no penalty is specified, the offender, upon conviction thereof, shall be punished by a fine of not more than one thousand dollars, or by imprisonment in the county jail for not more than one year, or by both such fine and imprisonment.

**1-13-112. Offenses relating to mail ballots.** Any person who, by use of force or other means, unduly influences an elector to vote in any particular manner or to refrain from voting, or who falsely makes, alters, forges, or counterfeits any mail ballot before or after it has been cast, or who destroys, defaces, mutilates, or tampers with such a ballot shall be punished by a fine of not more than five thousand dollars, or by imprisonment in the county jail for not more than eighteen months, or by both such fine and imprisonment.

**1-13-113. Interference with distribution of election material.** During the period beginning forty-five days before and ending four days after any election, any person who prevents, hinders, or interferes with the lawful distribution of any card, pamphlet, circular, poster, handbill, yard sign, or other written material relating to any candidate for election for any office or relating to any issue that is to be submitted to the electors in any election, or any person who removes, defaces, or destroys any lawfully placed billboard, sign, or written material from any premises to which it was delivered, commits a misdemeanor and shall be punished by a fine of not more than seven hundred fifty dollars. Any person found guilty of removing, defacing, or destroying any billboard, sign, or written material shall pay the cost of replacement. The owner of the premises, an authorized agent of the owner, or any person charged with enforcement of any state law, ordinance, or regulation may remove any billboard, sign, or written material without penalty when placed without permission or authorization of the owner of such premises, or in violation of state law or county or municipal ordinance or regulation, or which is in place at any time other than during the period beginning forty-five days before and ending four days after any election.

**1-13-114. Failure to comply with requirements of secretary of state.** Any person who willfully interferes or willfully refuses to comply with the rules of the secretary of state or the secretary of state's designated agent in the carrying out of the powers and duties prescribed in section 1-1-107 is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than one hundred dollars nor more than five hundred dollars, or by imprisonment in the county jail for not more than thirty days, or by both such fine and imprisonment.

#### **PART 4 OFFENSES - ACCESS TO BALLOT BY CANDIDATE**

**1-13-401. Bribery of petition signers.** Any person who offers or, with knowledge of the same, permits any person to offer for his benefit any bribe or promise of gain to an elector to induce him to sign any petition or other election paper or any person who accepts any bribe or promise of gain of any kind in the nature of a bribe as consideration for signing the same, whether such bribe or promise of gain in the nature of a bribe is offered or accepted before or after signing, is guilty of a misdemeanor and, upon conviction thereof, shall be punished as provided in section 1-13-111.

**1-13-402. Tampering with nomination papers - nomination petitions.** (1) Any person who, being in possession of any petition, certificate of nomination, or letter of acceptance, declination, or withdrawal, wrongfully or willfully destroys, defaces, mutilates, suppresses, neglects to file, or fails to cause to be filed the same within the prescribed time or who files any such paper knowing the same, or any part thereof, to be falsely made or who adds, amends, alters, or in any way changes the information on the petition as written by a signing elector is guilty of a misdemeanor and, upon conviction thereof, shall be punished as provided in section 1-13-111.

(2) Any person who willfully destroys, defaces, mutilates, or suppresses any nomination petition or who willfully neglects to file or delays the delivery of the nomination petition or who conceals or removes any petition from the possession of the person authorized by law to have the custody thereof, or who aids, counsels, procures, or assists any person in doing any of said acts commits a misdemeanor and, upon conviction thereof, shall be punished as provided in section 1-13-111.

**1-13-403. Defacing of petitions other than nominating petitions.** Any person who willfully destroys, defaces, mutilates, or suppresses a petition; who willfully neglects to file or delays

delivery of a petition; who conceals or removes a petition from the possession of the person authorized by law to have custody of it; or who aids, counsels, procures, or assists any person in doing any of the above acts commits a misdemeanor and, upon conviction thereof, shall be punished as provided in section 1-13-111.

**PART 5  
(Reserved)**

**PART 6  
OFFENSES - NOTICE AND PREPARATION FOR  
ELECTIONS**

**1-13-601. Tampering with notices or supplies.** Any person who, prior to an election, willfully defaces, removes, or destroys any notice of election posted in accordance with the provisions of this code, or who, during an election, willfully defaces, removes, or destroys any card of instruction or sample ballot printed or posted for the instruction of electors, or who, during an election, willfully defaces, removes, or destroys any of the supplies or conveniences furnished to enable a voter to prepare his ballot is guilty of a misdemeanor and, upon conviction thereof, shall be punished as provided in section 1-13-111.

**PART 7  
OFFENSES - CONDUCT OF ELECTIONS**

**1-13-701. Interference with election official.** Any person who, at any election provided by law, interferes in any manner with any election official in the discharge of his duty or who induces any election official to violate or refuse to comply with his duty or any law regulating the same is guilty of a misdemeanor and, upon conviction thereof, shall be punished as provided in section 1-13-111.

**1-13-702. Interfering with watcher.** Any person who intentionally interferes with any watcher while he is discharging his duties set forth in section 1-7-108 (3) is guilty of a misdemeanor and, upon conviction thereof, shall be punished as provided in section 1-13-111.

**1-13-703. Tampering with registration book, registration list, or pollbook.** Any person who mutilates or erases any name, figure, or word in any registration book, registration list, or pollbook; or who removes such registration book, registration list, or pollbook or any part thereof from the place where it has been deposited with an intention to destroy the same, or to procure or prevent the election of any person, or to prevent any voter from voting; or who destroys any registration book, registration list, or pollbook or part thereof is guilty of a misdemeanor

and, upon conviction thereof, shall be punished as provided in section 1-13-111.

**1-13-704. Unlawfully refusing ballot or permitting to vote.** If at any election provided by law any judge of election willfully and maliciously refuses or neglects to receive the ballot of any registered elector who has taken or offered to take the oath prescribed by section 1-9-204 or knowingly and willfully permits any person to vote who is not entitled to vote at such election, such judge is guilty of a misdemeanor and, upon conviction thereof, shall be punished as provided in section 1-13-111.

**1-13-705. Personating elector.** Any person who falsely personates any elector and votes at any election provided by law under the name of such elector shall be punished by a fine of not more than five thousand dollars or by imprisonment in the county jail for not more than eighteen months, or by both such fine and imprisonment.

**1-13-706. Delivering and receiving ballots at polls.** (1) No voter shall receive an official ballot from any person except one of the judges of election having charge of the ballots, nor shall any person other than such judge deliver an official ballot to such voter.

(2) No person except a judge of election shall receive from any voter a ballot prepared for voting.

(3) Any voter who does not vote the ballot received by him shall return his ballot to the judge from whom he received the same before leaving the polling place.

(4) Each violation of the provisions of this section is a misdemeanor, and, upon conviction thereof, the offender shall be punished as provided in section 1-13-111.

**1-13-707. Inducing defective ballot.** Any person who causes any deceit to be practiced with intent to fraudulently induce a voter to deposit a defective ballot so as to have the ballot thrown out and not counted is guilty of a misdemeanor and, upon conviction thereof, shall be punished as provided in section 1-13-111.

**1-13-708. Tampering with voting equipment.** Any person who tampers with any electronic or electromechanical voting equipment before, during, or after any election provided by law with intent to change the tabulation of votes thereon to reflect other than an accurate accounting is guilty of a misdemeanor and, upon conviction thereof, shall be punished as provided in section 1-13-111.

**1-13-708.5. Elected officials not to handle electronic or electromechanical voting equipment or devices.** Any person who violates any provision of section 1-5-607 is guilty of a misdemeanor and shall be punished as provided in section 1-13-111.

**1-13-709. Voting in wrong precinct.** Any person who, at any election provided by law, knowingly votes or offers to vote in any election precinct in which he or she is not qualified to vote shall be punished by a fine of not more than five thousand dollars or by imprisonment in the county jail for not more than eighteen months, or by both such fine and imprisonment.

**1-13-709.5. Residence - false information - penalty.** Any person who votes by knowingly giving false information regarding the elector's place of present residence commits a class 6 felony and shall be punished as provided in section 18-1.3-401, C.R.S.

**1-13-710. Voting twice - penalty.** Any voter who votes more than once or, having voted once, offers to vote again or offers to deposit in the ballot box more than one ballot shall be punished by a fine of not more than five thousand dollars or by imprisonment in the county jail for not more than eighteen months, or by both such fine and imprisonment.

**1-13-711. Interference with voter while voting.** Any person who interferes with any voter who is inside the immediate voting area or is marking a ballot or operating a voting device or electronic voting device at any election provided by law is guilty of a misdemeanor and, upon conviction thereof, shall be punished as provided in section 1-13-111.

**1-13-712. Disclosing or identifying vote.** (1) Except as provided in section 1-7-108, no voter shall show his ballot after it is prepared for voting to any person in such a way as to reveal its contents. No voter shall place any mark upon his ballot by means of which it can be identified as the one voted by him, and no other mark shall be placed on the ballot by any person to identify it after it has been prepared for voting.

(2) No person shall endeavor to induce any voter to show how he marked his ballot.

(3) No election official, watcher, or person shall reveal to any other person the name of any candidate for whom a voter has voted or communicate to another his opinion, belief, or impression as to how or for whom a voter has voted.

(4) Any person who violates any provision of this section is guilty of a misdemeanor and, upon conviction thereof, shall be punished as provided in

section 1-13-111.

**1-13-713. Intimidation.** It is unlawful for any person directly or indirectly, by himself or by any other person in his behalf, to impede, prevent, or otherwise interfere with the free exercise of the elective franchise of any elector or to compel, induce, or prevail upon any elector either to give or refrain from giving his vote at any election provided by law or to give or refrain from giving his vote for any particular person or measure at any such election. Each such offense is a misdemeanor, and, upon conviction thereof, the offender shall be punished as provided in section 1-13-111.

**1-13-714. Electioneering - removing and return of ballot.** No person shall do any electioneering on the day of any election within any polling place or in any public street or room or in any public manner within one hundred feet of any building in which a polling place is located, as publicly posted by the designated election official. As used in this section, the term "electioneering" includes campaigning for or against any candidate who is on the ballot or any ballot issue or ballot question that is on the ballot.

"Electioneering" also includes soliciting signatures for a candidate petition, a recall petition, or a petition to place a ballot issue or ballot question on a subsequent ballot. No person shall remove any official ballot from the polling place before the closing of the polls. Any person who violates any provision of this section is guilty of a misdemeanor and, upon conviction thereof, shall be punished as provided in section 1-13-111.

**1-13-715. Liquor in or near polling place.** (1) It is unlawful for any election official or other person to introduce into any polling place, or to use therein, or to offer to another for use therein, at any time while any election is in progress or the result thereof is being ascertained by the counting of the ballots, any intoxicating malt, spirituous, or vinous liquors.

(2) It is unlawful for any officer or board of officers of any county or any municipality, whether incorporated under general law or by special charter, who may at any time be by law charged with the duty of designating polling places for the holding of any general or congressional election therein, to select therefor a room wherein any intoxicating malt, spirituous, or vinous liquors are usually sold for consumption on the premises.

(3) Any person who violates any provision of this section is guilty of a misdemeanor and, upon conviction thereof, shall be punished as provided in section 1-13-111.

**1-13-716. Destroying, removing, or delaying**

**delivery of election records.** (1) No person shall willfully destroy, deface, or alter any ballot or any election records or willfully delay the delivery of any such ballots or election records, or take, carry away, conceal, or remove any ballot, ballot box, or election records from the polling place or from the possession of a person authorized by law to have the custody thereof, or aid, counsel, procure, advise, or assist any person to do any of the aforesaid acts.

(2) No election official who has undertaken to deliver the official ballots and election records to the county clerk and recorder shall neglect or refuse to do so within the time prescribed by law or shall fail to account fully for all official ballots and other records in his charge. Informality in the delivery of the ballots and election records shall not invalidate the vote of any precinct if such records are delivered prior to the canvassing of the votes by the county board of canvassers.

(3) Any person who violates any provision of this section is guilty of a misdemeanor and, upon conviction thereof, shall be punished as provided in section 1-13-111.

**1-13-717. Penalty for destruction of supplies.** Any person who, during an election, willfully defaces, tears down, removes, or destroys any card of instruction or sample ballot printed or posted for the instruction of voters or who, during an election, willfully removes or destroys any of the supplies or conveniences furnished to enable a voter to prepare his ballot or willfully hinders the voting of others is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than five dollars nor more than one hundred dollars, or by imprisonment in the county jail for not more than three months, or by both such fine and imprisonment.

**1-13-718. Release of information concerning count.** Any election official, watcher, or other person who releases information concerning the count of ballots cast at precinct polling places or of absentee voters' ballots prior to 7 p.m. on the day of the election is guilty of a misdemeanor and, upon conviction thereof, shall be punished as provided in section 1-13-111.

**1-13-719. Employer's unlawful acts.** (1) It is unlawful for any employer, whether corporation, association, company, firm, or person, or any officer or agent of such employer:

(a) In any manner to control the action of his employees in casting their votes for or against any person or measure at any precinct caucus, assembly, or convention; or

(b) To refuse to an employee the privilege of taking time off to vote as provided by section 1-7-102, or to subject an employee to a penalty or reduction of

wages because of the exercise of such privilege, or to violate any of the provisions of section 1-7-102 in any other way; or

(c) In paying his employees the salary or wages due them, to enclose their pay in pay envelopes upon which there is written or printed any political mottoes, devices, or arguments containing threats, express or implied, intended or calculated to influence the political opinions, views, or actions of such employees; or

(d) Within ninety days of any election provided by law, to put up or otherwise exhibit in his factory, workshop, mine, mill, boardinghouse, office, or other establishment or place where his employees may be working or be present in the course of such employment any handbill, notice, or placard containing any threat, notice, or information that, if any particular ticket or candidate is elected, work in his place or establishment will cease in whole or in part, or his establishment will be closed, or the wages of his workmen will be reduced or containing other threats, express or implied, intended or calculated to influence the political opinions or actions of his employees.

(2) Each offense mentioned in subsection (1) of this section is a misdemeanor, and, upon conviction thereof, the offender shall be punished as provided in section 1-13-111. In addition thereto, any corporation violating this section shall forfeit its charter and right to do business in this state.

**1-13-720. Unlawfully giving or promising money or employment.** (1) It is unlawful for any person, directly or indirectly, by himself or through any other person:

(a) To pay, loan, or contribute, or offer or promise to pay, loan, or contribute, any money or other valuable consideration to or for any elector, or to or for any other person, to induce such elector to vote or refrain from voting at any election provided by law or to induce any elector to vote or refrain from voting at such election for any particular person or to induce such elector to go to the polls or remain away from the polls at such election or on account of such elector having voted or refrained from voting for any particular person or issue or having gone to the polls or remained away from the polls at such election; or

(b) To advance or pay, or cause to be paid, any money or other valuable thing to or for the use of any other person with the intent that the same, or any part thereof, shall be used in bribery at any election provided by law or to knowingly pay, or cause to be paid, any money or other valuable thing to any person in discharge or repayment of any money wholly or partially expended in bribery at any such election; or

(c) To give, offer, or promise any office,

place, or employment or to promise, procure, or endeavor to procure any office, place, or employment to or for any elector, or to or for any other person, in order to induce such elector to vote or refrain from voting at any election provided by law or to induce any elector to vote or refrain from voting at such election for any particular person or issue.

(2) Each offense set forth in subsection (1) of this section is a misdemeanor, and, upon conviction thereof, the offender shall be punished as provided in section 1-13-111.

**1-13-721. Receipt of money or jobs.** (1) It is a misdemeanor for any person, directly or indirectly, by himself or through any other person:

(a) Before or during an election provided by law, to receive, agree to accept, or contract for any money, gift, loan, or other valuable consideration, office, place, or employment, for himself or any other person, for voting or agreeing to vote, or for going or agreeing to go to the polls, or for remaining away or agreeing to remain away from the polls, or for refraining or agreeing to refrain from voting, or for voting or agreeing to vote or refraining or agreeing to refrain from voting for any particular person or measure at any election provided by law;

(b) During or after an election provided by law, to receive any money or other valuable thing on account of himself or any other person for voting or refraining from voting at such election, or on account of himself or any other person for voting or refraining from voting for any particular person at such election, or on account of himself or any other person for going to the polls or remaining away from the polls at such election, or on account of having induced any person to vote or refrain from voting for any particular person or measure at such election.

**1-13-722. Defacing or removing abstract of votes.** Any person who defaces, mutilates, alters, or removes the abstract of votes cast posted upon the outside of the polling place in accordance with section 1-7-602 is guilty of a misdemeanor and, upon conviction thereof, shall be punished as provided in section 1-13-111.

**1-13-723. Penalty for neglect of duty - destruction of ballots - breaking seal.** (1) Every officer upon whom any duty is imposed by any election law who violates his duty or who neglects or omits to perform the same is guilty of a misdemeanor and, upon conviction thereof, shall be punished as provided in section 1-13-111.

(2) Any official or person, except one authorized by law, who breaks or loosens a seal on a ballot or a ballot box with the intent to disclose or learn the number of such ballot or ballot box is guilty

of a misdemeanor and, upon conviction thereof, shall be punished as provided in section 1-13-111.

## **PART 8**

### **OFFENSES - ABSENTEE VOTING AND VOTING BY NEW RESIDENTS**

**1-13-801. Mailing other materials with absentee voter's ballot.** It is unlawful for any county clerk and recorder to deliver or mail to a registered elector, as a part of or in connection with the absentee voter's ballot, anything other than the voting material as provided in article 8 of this title. Each such offense is a misdemeanor, and, upon conviction thereof, the offender shall be punished as provided in section 1-13-111.

**1-13-802. Absentee voter applications and deliveries outside county clerk and recorder's office.** No county clerk and recorder shall accept any application for any absentee voter's ballot nor make personal delivery of any such ballot to the applicant unless such acceptance and delivery occurs within the confines of the official office of such county clerk and recorder, except as otherwise provided in sections 1-8-104, 1-8-106, and 1-8-112. Any acceptance or delivery contrary to the provisions of this section renders void the ballot to which it relates. Each violation of this section is a misdemeanor, and, upon conviction thereof, the offender shall be punished as provided in section 1-13-111.

**1-13-803. Offenses relating to absentee voting.** Any election official or other person who knowingly violates any of the provisions of article 8 of this title relative to the casting of absentee voters' ballots or who aids or abets fraud in connection with any vote cast, or to be cast, or attempted to be cast by an absentee voter shall be punished by a fine of not more than five thousand dollars or by imprisonment in the county jail for not more than eighteen months, or by both such fine and imprisonment.

**TITLE 32, ARTICLE 1  
(THE SPECIAL DISTRICT ACT)**

**RELEVANT ELECTION AND BOARD ORGANIZATION  
STATUTES**



**TITLE 32  
SPECIAL DISTRICTS**

**SPECIAL DISTRICT ACT**

**ARTICLE 1  
Special District Provisions**

**PART 1  
GENERAL PROVISIONS**

32-1-103. Definitions.

**32-1-103. Definitions.** As used in this article, unless the context otherwise requires:

(1) "Ambulance district" means a special district which provides emergency medical services and the transportation of sick, disabled, or injured persons by motor vehicle, aircraft, or other form of transportation to and from facilities providing medical services. For the purpose of this subsection (1), "emergency medical services" means services engaged in providing initial emergency medical assistance, including, but not limited to, the treatment of trauma and burns and respiratory, circulatory, and obstetrical emergencies.

(1.5) "Board" means the board of directors of a special district.

(2) "Court" means the district court in any county in which the petition for organization of the special district was originally filed and which entered the order organizing said district or the district court to which the file pertaining to the special district has been transferred pursuant to section 32-1-303 (1) (b).

(2.5) "Depository institution" means:

(a) A person that is organized or chartered, or is doing business or holds an authorization certificate, under the laws of a state or of the United States which authorize the person to receive deposits, including deposits in savings, shares, certificates, or other deposit accounts, and that is supervised and examined for the protection of depositors by an official or agency of a state or the United States; and

(b) A trust company or other institution that is authorized by federal or state law to exercise fiduciary powers of the type that a national bank is permitted to exercise under the authority of the comptroller of the currency and that is supervised and examined by an official or agency of a state or the United States. The term does not include an insurance company or other organization primarily engaged in the insurance business.

(3) "Director" means a member of the board.

(4) "Division" means the division of local government in the department of local affairs.

(5) (a) "Eligible elector" means a person who, at the designated time or event, is registered to vote pursuant to the "Uniform Election Code of 1992",

articles 1 to 13 of title 1, C.R.S., and:

(I) Who has been a resident of the special district or the area to be included in the special district for not less than thirty days; or

(II) Who, or whose spouse, owns taxable real or personal property situated within the boundaries of the special district or the area to be included in the special district, whether said person resides within the special district or not.

(b) A person who is obligated to pay taxes under a contract to purchase taxable property situated within the boundaries of the special district or the area to be included within the special district shall be considered an owner within the meaning of this subsection (5).

(c) Repealed.

(d) For all elections and petitions that require ownership of real property or land, a mobile home as defined in section 38-12-201.5 (2) or 5-1-301 (29), C.R.S., or a manufactured home as defined in section 42-1-102 (106) (b), C.R.S., shall be deemed sufficient to qualify as ownership of real property or land for the purpose of voting rights and petitions.

(e) In the event that the board, by resolution, ends business personal property taxation by the district pursuant to subsection (8) (b) of section 20 of article X of the state constitution, persons owning such property and spouses thereof shall not be eligible electors of the district on the basis of ownership of such property.

(6) Repealed.

(6.5) "Financial institution or institutional investor" means any of the following, whether acting for itself or others in a fiduciary capacity:

(a) A depository institution;

(b) An insurance company;

(c) A separate account of an insurance company;

(d) An investment company registered under the federal "Investment Company Act of 1940";

(e) A business development company as defined in the federal "Investment Company Act of 1940";

(f) Any private business development company as defined in the federal "Investment Company Act of 1940";

(g) An employee pension, profit-sharing, or benefit plan if the plan has total assets in excess of five million dollars or its investment decisions are made by a named fiduciary, as defined in the federal "Employee Retirement Income Security Act of 1974", that is a broker-dealer registered under the federal "Securities Exchange Act of 1934", an investment adviser registered or exempt from registration under the federal "Investment Advisers Act of 1940", a depository institution, or an insurance company;

(h) An entity, but not an individual, a substantial part of whose business activities consists of investing, purchasing, selling, or trading in securities of

more than one issuer and not of its own issue and that has total assets in excess of five million dollars as of the end of its last fiscal year; and

(i) A small business investment company licensed by the federal small business administration under the federal "Small Business Investment Act of 1958".

(7) "Fire protection district" means a special district which provides protection against fire by any available means and which may supply ambulance and emergency medical and rescue services.

(8) "Governing body" means a city council or board of trustees and includes a body or board where the operation and management of service is under the control of a municipal body or board other than a city council or board of trustees.

(9) "Health service district" means a special district that may establish, maintain, or operate, directly or indirectly through lease to or from other parties or other arrangement, public hospitals, convalescent centers, nursing care facilities, intermediate care facilities, emergency facilities, community clinics, or other facilities licensed or certified pursuant to section 25-1.5-103 (1) (a), C.R.S., providing health and personal care services and may organize, own, operate, control, direct, manage, contract for, or furnish ambulance service.

(9.5) "Mental health care service district" means a special district created pursuant to this article to provide, directly or indirectly, mental health care services to residents of the district who are in need of mental health care services and to family members of such residents.

(10) "Metropolitan district" means a special district that provides for the inhabitants thereof any two or more of the following services:

- (a) Fire protection;
- (b) Mosquito control;
- (c) Parks and recreation;
- (d) Safety protection;
- (e) Sanitation;
- (f) Solid waste disposal facilities or collection and transportation of solid waste;
- (g) Street improvement;
- (h) Television relay and translation;
- (i) Transportation;
- (j) Water.

(11) "Municipality" means a municipality as defined in section 31-1-101 (6), C.R.S.

(12) "Net effective interest rate" means the net interest cost of securities issued by a public body divided by the sum of the products derived by multiplying the principal amount of the securities maturing on each maturity date by the number of years from their date to their respective maturities. In all cases, net effective interest rate shall be computed without regard to any option of redemption prior to the designated maturity dates of the securities.

(13) "Net interest cost" means the total amount of interest to accrue on securities issued by a public body from their date to their respective maturities, less the amount of any premium above par, or plus the amount of any discount below par, at which said securities are being or have been sold. In all cases net interest cost shall be computed without regard to any option of redemption prior to the designated maturity dates of the securities.

(14) "Park and recreation district" means a special district which provides parks or recreational facilities or programs within said district.

(14.5) "Property owners' list" means the list furnished by the county assessor in accordance with section 1-5-304, C.R.S., showing each property owner within the district, as shown on a deed or contract of record.

(15) "Publication" means printing one time, in one newspaper of general circulation in the special district or proposed special district if there is such a newspaper, and, if not, then in a newspaper in the county in which the special district or proposed special district is located. For a special district with territory within more than one county, if publication cannot be made in one newspaper of general circulation in the special district, then one publication is required in a newspaper in each county in which the special district is located and in which the special district also has fifty or more eligible electors.

(16) "Quorum" means more than one-half of the number of directors serving on the board of a special district.

(17) "Regular special district election" means the election on the Tuesday succeeding the first Monday of May in every even-numbered year, held for the purpose of electing members to the boards of special districts and for submission of other public questions, if any.

(17.5) (Deleted by amendment, L. 92, p. 874, § 105, effective January 1, 1993.)

(18) "Sanitation district" means a special district that provides for storm or sanitary sewers, or both, flood and surface drainage, treatment and disposal works and facilities, or solid waste disposal facilities or waste services, and all necessary or proper equipment and appurtenances incident thereto.

(19) "Secretary" means the secretary of the board.

(19.5) "Solid waste" shall have the same definition as specified in section 30-20-101 (6), C.R.S.

(20) "Special district" means any quasi-municipal corporation and political subdivision organized or acting pursuant to the provisions of this article. "Special district" does not include any entity organized or acting pursuant to the provisions of article 8 of title 29, article 20 of title 30, article 25 of title 31, or articles 41 to 48 of title 37, C.R.S.

(21) "Special election" means any election

called by the board for submission of public questions and other matters. The election shall be held on the first Tuesday after the first Monday in February, May, October, or December, in November of even-numbered years or on the first Tuesday in November of odd-numbered years. Any special district may petition a district court judge who has jurisdiction in such district for permission to hold a special election on a day other than those specified in this subsection (21). The district court judge may grant permission only upon a finding that an election on the days specified would be impossible or impracticable or upon a finding that an unforeseeable emergency would require an election on a day other than those specified.

(22) "Taxable property" means real or personal property subject to general ad valorem taxes. "Taxable property" does not include the ownership of property on which a specific ownership tax is paid pursuant to law.

(23) (a) "Taxpaying elector" means an eligible elector of a special district who, or whose spouse, owns taxable real or personal property within the special district or the area to be included in or excluded from the special district, whether the person resides within the special district or not.

(b) A person who is obligated to pay taxes under a contract to purchase taxable property within the special district shall be considered an owner within the meaning of this subsection (23).

(c) For all elections and petitions that require ownership of real property or land, a mobile home as defined in section 38-12-201.5 (2) or 5-1-301 (29), C.R.S., or a manufactured home as defined in section 42-1-102 (106) (b), C.R.S., shall be deemed sufficient to qualify as ownership of real property or land for the purpose of voting rights and petitions.

(23.2) "Tunnel" means one or more holes under or through the ground, mountains, rock formations, or other natural or man-made material, including roads, railroads, pipelines, and other means of transporting vehicles, people, or goods through any such tunnel, whether located in the tunnel or, to the extent the same connects the tunnel to other similar facilities, located outside the tunnel. "Tunnel" also means any ventilation, drainage, and support facilities, toll collection facilities, administrative facilities, and other facilities necessary or convenient to the acquisition, construction, improvement, equipping, operation, or maintenance of the tunnel or to the operation of the tunnel district, whether located within or without the tunnel.

(23.5) "Tunnel district" means a special district which provides a tunnel.

(24) "Water and sanitation district" means a special district which provides both water district and sanitation district services.

(25) "Water district" means a special district which supplies water for domestic and other public and

private purposes by any available means and provides all necessary or proper reservoirs, treatment works and facilities, equipment, and appurtenances incident thereto.

32-1-104. Establishment of a special districts file. (1) The division shall promptly establish and maintain on a current basis, as a public record, a file listing by name all special districts, listing the names and addresses of all the members of the boards of the special districts, and recording all changes in the boundaries of the special districts. The file shall also list the names of the officers of each special district and a business address, a telephone number, and the name of a contact person for each district. Annually, the division shall compile and maintain a current and revised list of special districts for public inspection. Each special district shall register its business address, its telephone number, and the name of a contact person with the division when certifying the results of a district election pursuant to section 1-11-103, C.R.S.

(2) On or before January 15 of each year, a special district shall notify the board of county commissioners, the county assessor, the county treasurer, and the county clerk and recorder of each county in which the special district is located, the governing body of any municipality in which the special district is located, and the division of the name of the chairman of the board, the contact person, the telephone number, and the business address of the special district. If such persons and address are not located within the special district, the special district shall notify each such county clerk and recorder and municipality's governing body of the name, address, and telephone number of a contact person located within the special district, if such person is available.

### **PART 3 ORGANIZATION**

32-1-305.5. Organizational election - new special district - first directors.

#### **32-1-305.5. Organizational election - new special district - first directors**

(3) The basic term of office for directors, after the original terms provided in subsection (2) of this section, shall be four years.

(4) A nomination for director to serve for either term may be made by self-nomination and acceptance form or letter, as provided in section 32-1-804.3, with the time and manner of filing such form or letter as directed in the order of the district court authorizing the election.

### **PART 8 ELECTIONS**

- 32-1-801. Legislative declaration - applicability.
- 32-1-802. Acts and elections conducted pursuant to provisions which refer to qualified electors.
- 32-1-803. Acts and elections conducted pursuant to provisions which refer to registered electors.
- 32-1-803.5. Organizational election - new special district.
- 32-1-804. Board to conduct elections - combined election - time for special election.
- 32-1-804.1. Call for nominations.
- 32-1-804.3. Candidates for director - self-nomination and acceptance form.
- 32-1-805. Time for holding elections.
- 32-1-806. Persons entitled to vote at special district elections.
- 32-1-807. Nonapplicability of criminal penalties.

**32-1-801. Legislative declaration - applicability.** It is hereby declared that the orderly conduct of elections of special districts will serve a public use and will promote the health, safety, security, and general welfare of the people of the state of Colorado. Therefore, all elections shall be held pursuant to the provisions of articles 1 to 13 of title 1, C.R.S., unless otherwise provided

**32-1-802. Acts and elections conducted pursuant to provisions which refer to qualified electors.** Any elections, and any acts relating thereto, carried out under this part 8, which were conducted prior to July 1, 1987, pursuant to provisions which referred to a qualified elector rather than an eligible elector and which were valid when conducted, shall be deemed and held to be legal and valid in all respects.

**32-1-803. Acts and elections conducted pursuant to provisions which refer to registered electors.** Any elections and any acts relating to those elections, carried out under this part 8 which were conducted prior to July 1, 1992, and which were valid when conducted, shall be held to be legal and valid in all respects.

**32-1-803.5. Organizational election - new special district.** At any election for the organization of a new special district, the court shall also order the submission of the proposition of issuing general obligation bonds or creating other general obligation indebtedness or any question or questions necessary to implement the provisions of section 20 of article X of the Colorado constitution as applied to the new special district, if the petition filed pursuant to section 32-1-301 requests that such questions be submitted at the organizational election. The order of the court shall make the determinations required by section 32-1-1101

(2) and (3) (a) and require the clerk of the court to conduct the election in accordance with section 20 of article X of the Colorado constitution.

**32-1-804. Board to conduct elections - combined election - time for special election.** (1) After a special district is organized and the first board is elected, the board shall govern the conduct of all subsequent regular and special elections of the special district and shall render all interpretations and make all decisions as to controversies or other matters arising in the conduct of the elections. The board in its discretion, but no more frequently than every four years, may reestablish the boundaries of director districts created pursuant to section 32-1-301 (2) (f) so that the director districts have, as nearly as possible, the same number of eligible electors.

(2) All powers and authority granted to the board by this part 8 for the conduct of regular or special elections may be exercised in the absence of the board by the secretary or by an assistant secretary appointed by the board. The person named by the board who is responsible for the conducting of the election shall be the designated election official.

**32-1-804.1. Call for nominations.** Not less than seventy-five days nor more than ninety days before a regular special district election, the designated election official shall provide notice by publication of a call for nominations for the election. The call shall state the special district director offices to be voted upon at the election, where a self-nomination and acceptance form may be obtained, the deadline for submitting the self-nomination and acceptance form to the designated election official, and information on obtaining an absentee ballot.

**32-1-804.3. Candidates for director - self-nomination and acceptance form.** (1) Not less than sixty-seven days before the date of the regular special district election, any person who desires to be a candidate for the office of a special district director shall file a self-nomination and acceptance form or letter signed by the candidate and by a registered elector as a witness to the signature of the candidate.

(2) On the date of signing the self-nomination and acceptance form or letter, a candidate for director shall be an eligible elector of the special district, if the district is divided into director districts established pursuant to section 32-1-301 (2) (f), the candidate shall be an eligible elector within the boundaries of the director district in which the candidate is running for office.

(3) A self-nomination and acceptance form that is not sufficient may be amended once at any time prior to 3 p.m. on the sixty-seventh day before the election.

(4) The self-nomination and acceptance form

or letter shall state the name of the special district in which the election will be held, the special district director office sought by the candidate, the term of office sought if more than one length of a director's term is to be voted upon at the election, the date of the election, and the full name of the candidate as it is to appear on the ballot. Unless physically unable, all candidates and witnesses shall sign their own signature and shall print their names, their respective residence addresses, including the street number and name, the city or town, the county, telephone number, and the date of signature on the self-nomination and acceptance form or letter.

(5) The self-nomination and acceptance form or letter shall be filed with the designated election official or, if none has been designated, the presiding officer or the secretary of the board of directors of the special district in which the election will be held.

(6) The self-nomination and acceptance form or letter shall be verified and processed substantially as provided in section 1-4-908, C.R.S. A protest on such a form or letter shall be determined substantially as provided in sections 1-4-909 and 1-4-911, C.R.S. Cure of such a form or letter shall be allowed substantially as provided for in section 1-4-912, C.R.S.

**32-1-805. Time for holding elections.** (1) Regular special district elections shall be held on the Tuesday succeeding the first Monday of May in every even-numbered year.

(2) Special elections may be held on the first Tuesday after the first Monday in February, May, October, or December, except for ballot issue elections, which may be held only in a state general election, biennial local district election, or on the first Tuesday in November of odd-numbered years.

(3) Whenever the date of a regular special district election is identical to the date set for a municipal or another special district election in any municipality or other special district having boundaries coterminous with the special district, the election may be held jointly with the municipal or other special district election.

**32-1-806. Persons entitled to vote at special district elections.** (1) No person shall be permitted to vote in any election unless that person is an eligible elector as defined in section 32-1-103 (5) (a).

(2) Any person desiring to vote at any election as an eligible elector pursuant to section 32-1-103 (5) (a) (II) shall sign a self-affirmation that the person is an elector of the special district. The self-affirming oath or affirmation shall be on a form that contains in substance the following:

"I, (printed name), who reside at (address), am an elector of this (name of special district) district and desire to vote at this election. I do solemnly swear (or affirm) that I am

registered to vote in the state of Colorado and qualified to vote in this special district election as:

         A resident of the district or area to be included in the district for not less than thirty days; or

         The owner of taxable real or personal property situated within the boundaries of the special district or area to be included within the special district; or

         A person who is obligated to pay taxes under a contract to purchase taxable property in the special district or the area to be included within the special district; or

         The spouse of (name of spouse) who is the owner of taxable real or personal property situated within the boundaries of the special district or area to be included within the special district.

I have not voted previously at this election.

Date                                 

Signature of elector   ."

(3) For electors who vote at any election by absentee ballot or mail ballot, the affidavit on the envelope of the ballot as required by title 1, C.R.S., may be substituted for the self-affirming oath or affirmation required by subsection (2) of this section.

(4) A person who completes the self-affirming oath or affirmation required by subsection (2) of this section shall be permitted to vote, unless such person's right to vote is challenged.

**32-1-807. Nonapplicability of criminal penalties.**

Election offenses and penalties prescribed by parts 2 and 3 of article 13 of title 1, C.R.S., do not apply to elections authorized under this title.

## PART 9

### DIRECTORS - ORGANIZATION OF BOARD

32-1-901. Oath and bond of directors.

32-1-902. Organization of board - compensation - disclosure.

32-1-903. Meetings.

32-1-904. Office.

32-1-905. Vacancies.

32-1-906. Directors subject to recall.

32-1-907. Recall election - resignation.

**32-1-901. Oath and bond of directors.** (1) Each director, within thirty days after his or her election or appointment to fill a vacancy, except for good cause shown, shall appear before an officer authorized to administer oaths and take an oath that he or she will faithfully perform the duties of his or her office as required by law and will support the constitution of the United States, the constitution of the state of Colorado, and the laws made pursuant thereto. When an election is cancelled in whole or in part pursuant to section 1-5-208 (1.5), C.R.S., each director who was declared elected shall take the oath required by this subsection

(1) within thirty days after the date of the regular election, except for good cause shown. The oath may be administered by the county clerk and recorder, by the clerk of the court, by any person authorized to administer oaths in this state, or by the chairman of the board and shall be filed with the clerk of the court and with the division.

(2) At the time of filing said oath, there shall also be filed for each director an individual, schedule, or blanket surety bond at the expense of the special district, in an amount determined by the board of not less than one thousand dollars each, conditioned upon the faithful performance of his duties as director.

(3) If any director fails to take the oath or furnish the requisite bond within the period allowed, except for good cause shown, his office shall be deemed vacant, and the vacancy thus created shall be filled in the same manner as other vacancies in the office of director.

**32-1-902. Organization of board - compensation - disclosure.** (1) After taking oath and filing bonds, the board shall elect one of its members as chairman of the board and president of the special district, one of its members as a treasurer of the board and special district, and a secretary who may be a member of the board. The secretary and the treasurer may be one person, but, if such is the case, he shall be a member of the board. The board shall adopt a seal, and the secretary shall keep, in a well-bound book, a record of all its proceedings, minutes of all meetings, certificates, contracts, bonds given by employees, and all corporate acts which shall be open to inspection of all electors, as well as to all other interested parties.

(2) The treasurer shall keep strict and accurate accounts of all money received by and disbursed for and on behalf of the special district in permanent records. He shall file with the clerk of the court, at the expense of the special district, a corporate fidelity bond in an amount determined by the board of not less than five thousand dollars, conditioned on the faithful performance of the duties of his office.

(3) (a) (I) For directors serving a term of office commencing prior to July 1, 2005, each director may receive as compensation for the director's service a sum not in excess of one thousand two hundred dollars per annum, payable not to exceed seventy-five dollars per meeting attended.

(II) For directors serving a term of office commencing on or after July 1, 2005, each director may receive as compensation for the director's service a sum not in excess of one thousand six hundred dollars per annum, payable not to exceed one hundred dollars per meeting attended.

(b) No director shall receive compensation as an employee of the special district, other than that provided in this section, and any director shall disqualify himself or herself from voting on any issue in

which the director has a conflict of interest unless the director has disclosed such conflict of interest in compliance with section 18-8-308, C.R.S. Reimbursement of actual expenses for directors shall not be considered compensation. No director receiving workers' compensation benefits awarded in the line of duty as a volunteer firefighter or pension payments to retired firefighters shall be allowed to vote on issues involving the director's disability or pension payments.

(4) If a director of any special district owns undeveloped land which constitutes at least twenty percent of the territory included in the special district, such director shall disclose such fact in accordance with section 18-8-308, C.R.S., before each meeting of the board, and the fact of such disclosure shall be entered in the minutes of such meeting. For the purposes of this subsection (4), "undeveloped land" means real property which has not been subdivided or which has no improvements constructed on it, excluding real property dedicated for park, recreation, or open space purposes.

**32-1-903. Meetings.** (1) The board shall meet regularly at a time and in a place to be designated by the board. Special meetings may be held as often as the needs of the special district require, upon notice to each director. All special and regular meetings of the board shall be held at locations which are within the boundaries of the district or which are within the boundaries of any county in which the district is located, in whole or in part, or in any county so long as the meeting location does not exceed twenty miles from the district boundaries. The provisions of this subsection (1) governing the location of meetings may be waived only if the following criteria are met:

(a) The proposed change of location of a meeting of the board appears on the agenda of a regular or special meeting of the board; and

(b) A resolution is adopted by the board stating the reason for which a meeting of the board is to be held in a location other than under the provisions of this subsection (1) and further stating the date, time, and place of such meeting.

(2) Notice of time and place designated for all regular meetings shall be posted in at least three public places within the limits of the special district, and, in addition, one such notice shall be posted in the office of the county clerk and recorder in the county or counties in which the special district is located. Such notices shall remain posted and shall be changed in the event that the time or place of such regular meetings is changed. Special meetings may be called by any director by informing the other directors of the date, time, and place of such special meeting, and the purpose for which it is called, and by posting notice as provided in this section at least three days prior to said meeting. All official business of the board shall be conducted only during said regular or special meetings

at which a quorum is present, and all said meetings shall be open to the public.

(3) The notice posted pursuant to subsection (2) of this section for any regular or special meeting at which the board intends to make a final determination to issue or refund general obligation indebtedness, to consolidate the special district with another special district, to dissolve the special district, to file a plan for the adjustment of debt under federal bankruptcy law, or to enter into a private contract with a director, or not to make a scheduled bond payment, shall set forth such proposed action.

**32-1-904. Office.** The office of the special district shall be at some fixed place to be determined by the board.

**32-1-905. Vacancies.** (1) A director's office shall be deemed to be vacant upon the occurrence of any one of the following events prior to the expiration of the term of office:

(a) If for any reason a properly qualified person is not elected to a director's office by the electors as required at a regular election;

(b) If a person who was duly elected or appointed fails, neglects, or refuses to subscribe to an oath of office or to furnish the bond in accordance with the provisions of section 32-1-901;

(c) If a person who was duly elected or appointed submits a written resignation to the board;

(d) If the person who was duly elected or appointed ceases to be qualified for the office to which he was elected;

(e) If a person who was duly elected or appointed is convicted of a felony;

(f) If a court of competent jurisdiction voids the election or appointment or removes the person duly elected or appointed for any cause whatsoever, but only after his right to appeal has been waived or otherwise exhausted;

(g) If the person who was duly elected or appointed fails to attend three consecutive regular meetings of the board without the board having entered upon its minutes an approval for an additional absence or absences; except that such additional absence or absences shall be excused for temporary mental or physical disability or illness;

(h) If the person who was duly elected or appointed dies during his term of office.

(2) (a) Any vacancy on the board shall be filled by appointment by the remaining director or directors, the appointee to serve until the next regular election, at which time, the vacancy shall be filled by election for any remaining unexpired portion of the term. If, within sixty days of the occurrence of any vacancy, the board fails, neglects, or refuses to appoint a director from the pool of any duly qualified, willing candidates, the board of county commissioners of the county which approved the organizational petition may appoint a director to fill

such vacancy. The remaining director or directors shall not lose their authority to make an appointment to fill any vacancy unless and until the board of county commissioners which approved the organizational petition has actually made an appointment to fill that vacancy.

(b) No board of county commissioners shall make an appointment pursuant to paragraph (a) of this subsection (2) unless it provides thirty days' notice of its intention to make such appointment to the remaining members of the board and the vacancy remains open at the time the board of county commissioners makes its appointment. If the organizational petition was approved by more than one board of county commissioners, then the appointment shall be made by the boards of the county commissioners which approved the petition, sitting jointly. Such an appointment shall be made at an open public meeting.

(2.5) If there are no duly elected directors and if the failure to appoint a new board will result in the interruption of services that are being provided by the district, then the board of county commissioners of the county or counties which approved the organizational petition may appoint all directors from the pool of duly qualified, willing candidates. The board appointed pursuant to this subsection (2.5) shall call a special election within six months after their appointment, which special election is to be held in accordance with the provisions of section 32-1-305.5 and articles 1 to 13 of title 1, C.R.S.; except that the question of the organization shall not be presented at the election. In the event a district is wholly within the boundaries of a municipality, the governing body of the municipality may appoint directors.

(3) All appointments shall be evidenced by an appropriate entry in the minutes of the meeting, and the board shall cause a notice of appointment to be delivered to the person so appointed. A duplicate of each notice of appointment, together with the mailing address of the person so appointed, shall be forwarded to the division.

**32-1-906. Directors subject to recall.** (1) Any director elected to the board of any special district who has actually held office for at least six months may be recalled from office by the eligible electors of the special district. A petition signed by the lesser of three hundred eligible electors or forty percent of the eligible electors demanding the recall of any director named in the petition shall be filed in the court. Any recall shall be governed by the provisions of part 1 of article 12 of title 1, C.R.S.

(2) to (5) (Deleted by amendment, L. 92, p. 886, § 124, effective January 1, 1993.)

**32-1-907. Recall election - resignation.** (1) If a director subject to a recall petition offers a resignation, it shall be accepted, and the vacancy caused by the

resignation, or from any other cause, shall be filled as provided by section 32-1-905 (2). If the director does not resign within five days after the sufficiency of the recall petition has been sustained, the board shall order that a recall election be held pursuant to the provisions of part 1 of article 12 of title 1, C.R.S.

(2) (Deleted by amendment, L. 92, p. 887, § 125, effective January 1, 1993.)



**TITLE 1**  
**ARTICLE 45**

**FAIR CAMPAIGN PRACTICES ACT**

## ELECTION CAMPAIGN REGULATIONS

### ARTICLE 45

#### Fair Campaign Practices Act

- 1-45-101. Short title.
- 1-45-102. Legislative declaration.
- 1-45-103. Definitions.
- 1-45-103.7. Contribution limits.
- 1-45-104. Contribution limits. (Repealed)
- 1-45-105. Voluntary campaign spending limits. (Repealed)
- 1-45-105.3. Contribution limits. (Repealed)
- 1-45-105.5. Contributions to members of general assembly and governor during consideration of legislation.
- 1-45-106. Unexpended campaign contributions.

**1-45-101. Short title.** This article shall be known and may be cited as the "Fair Campaign Practices Act".

**1-45-102. Legislative declaration.** The people of the state of Colorado hereby find and declare that large campaign contributions to political candidates allow wealthy contributors and special interest groups to exercise a disproportionate level of influence over the political process; that large campaign contributions create the potential for corruption and the appearance of corruption; that the rising costs of campaigning for political office prevent qualified citizens from running for political office; and that the interests of the public are best served by limiting campaign contributions, encouraging voluntary campaign spending limits, full and timely disclosure of campaign contributions, and strong enforcement of campaign laws.

**1-45-103. Definitions.** As used in this article, unless the context otherwise requires:

(1) "Appropriate officer" shall have the same meaning as set forth in section 2 (1) of article XXVIII of the state constitution.

(2) "Candidate" shall have the same meaning as set forth in section 2 (2) of article XXVIII of the state constitution.

(3) "Candidate committee" shall have the same meaning as set forth in section 2 (3) of article XXVIII of the state constitution.

- 1-45-107. Independent expenditures. (Repealed)
- 1-45-108. Disclosure - repeal.
- 1-45-109. Filing - where to file - timeliness.
- 1-45-110. Candidate affidavit - disclosure statement.
- 1-45-111. Duties of the secretary of state - enforcement. (Repealed)
- 1-45-111.5. Duties of the secretary of state - enforcement.
- 1-45-112. Duties of municipal clerk and county clerk and recorder.
- 1-45-112.5. Immunity from liability for fine or penalty.
- 1-45-113. Sanctions. (Repealed)
- 1-45-114. Expenditures - political advertising - rates and charges.
- 1-45-115. Encouraging withdrawal from campaign prohibited.
- 1-45-116. Home rule counties and municipalities.
- 1-45-117. State and political subdivisions - imitations on contributions.
- 1-45-118. Severability.

(4) "Candidate committee account" shall mean the account established by a candidate committee with a financial institution pursuant to section 3 (9) of article XXVIII of the state constitution.

(5) "Conduit" shall have the same meaning as set forth in section 2 (4) of article XXVIII of the state constitution.

(6) (a) "Contribution" shall have the same meaning as set forth in section 2 (5) of article XXVIII of the state constitution.

(b) "Contribution" includes, with regard to a contribution for which the contributor receives compensation or consideration of less than equivalent value to such contribution, including, but not limited to, items of perishable or nonpermanent value, goods, supplies, services, or participation in a campaign-related event, an amount equal to the value in excess of such compensation or consideration as determined by the candidate committee.

(7) "Corporation" means a domestic corporation incorporated under and subject to the "Colorado Business Corporation Act", articles 101 to 117 of title 7, C.R.S.

(8) "Election cycle" shall have the same meaning as set forth in section 2 (6) of article XXVIII of the state constitution.

(9) "Electioneering communication" shall have the same meaning as set forth in section 2 (7) of article XXVIII of the state constitution.

(10) "Expenditure" shall have the same meaning as set forth in section 2 (8) of article XXVIII of the state constitution.

(11) "Independent expenditure" shall have the same meaning as set forth in section 2 (9) of article XXVIII of the state constitution.

(12) "Issue committee" shall have the same meaning as set forth in section 2 (10) of article XXVIII of the state constitution.

(13) "Person" shall have the same meaning as set forth in section 2 (11) of article XXVIII of the state constitution.

(14) "Political committee" shall have the same meaning as set forth in section 2 (12) of article XXVIII of the state constitution.

(15) "Political party" shall have the same meaning as set forth in section 2 (13) of article XXVIII of the state constitution.

(16) "Small donor committee" shall have the same meaning as set forth in section 2 (14) of article XXVIII of the state constitution.

(17) "Subsidiary" means a business entity having more than half of its stock owned by another entity or person, or a business entity of which a majority interest is controlled by another person or entity.

(18) "Unexpended campaign contributions" shall have the same meaning as set forth in section 2 (15) of article XXVIII of the state constitution.

**1-45-103.7. Contribution limits.** (1) Nothing in article XXVIII of the state constitution or this article shall be construed to prohibit a corporation or labor organization from making a contribution to a political committee.

(2) A political committee may receive and accept moneys contributed to such committee by a corporation or labor organization pursuant to subsection (1) of this section for disbursement to a candidate committee or political party without depositing such moneys in an account separate from the account required to be established for the receipt and acceptance of all contributions by all committees or political parties in accordance with section 3 (9) of article XXVIII of the state constitution.

(3) A candidate committee may accept:

(a) The aggregate contribution limit specified in section 3 (1) of article XXVIII of the state constitution for a primary election at any time after the date of the primary election in which the candidate in whose name the candidate committee is accepting contributions is on the primary election ballot; or

(b) The aggregate contribution limit specified in section 3 (1) of article XXVIII of the state constitution for a general election at any time prior to the date of the primary election in which the candidate in whose name the candidate committee is

accepting contributions is on the primary election ballot.

(4) A candidate committee may expend contributions received and accepted for a general election prior to the date of the primary election in which the candidate in whose name the candidate committee is accepting contributions is on the primary election ballot. A candidate committee established in the name of a candidate who wins the primary election may expend contributions received and accepted for a primary election in the general election.

**1-45-104. Contribution limits.** (Repealed)

**1-45-105. Voluntary campaign spending limits.** (Repealed)

**1-45-105.3. Contribution limits.** (Repealed)

**1-45-105.5. Contributions to members of general assembly and governor during consideration of legislation.**

(1) (a) No professional lobbyist, volunteer lobbyist, or principal of a professional lobbyist or volunteer lobbyist shall make or promise to make a contribution to, or solicit or promise to solicit a contribution for:

(I) A member of the general assembly or candidate for the general assembly, when the general assembly is in regular session;

(II) (A) The governor or a candidate for governor when the general assembly is in regular session or when any measure adopted by the general assembly in a regular session is pending before the governor for approval or disapproval; or

(B) The lieutenant governor, the secretary of state, the state treasurer, the attorney general, or a candidate for any of such offices when the general assembly is in regular session.

(b) As used in this subsection (1):

(I) "Principal" means any person that employs, retains, engages, or uses, with or without compensation, a professional or volunteer lobbyist. One does not become a principal, nor may one be considered a principal, merely by belonging to an organization or owning stock in a corporation that employs a lobbyist.

(II) The terms "professional lobbyist" and "volunteer lobbyist" shall have the meanings ascribed to them in section 24-6-301, C.R.S.

(c) (I) Nothing contained in this subsection (1) shall be construed to prohibit lobbyists and their principals from raising money when the general assembly is in regular session or when regular session legislation is pending before the governor, except as specifically prohibited in paragraph (a) of this subsection (1).

(II) Nothing contained in this subsection (1) shall be construed to prohibit a lobbyist or principal of a lobbyist from participating in a fund-raising event of a political party when the general assembly is in regular session or when regular session legislation is pending before the governor, so long as the purpose of the event is not to raise money for specifically designated members of the general assembly, specifically designated candidates for the general assembly, the governor, or specifically designated candidates for governor.

(III) A payment by a lobbyist or a principal of a lobbyist to a political party to participate in such a fund-raising event shall be reported as a contribution to the political party pursuant to section 1-45-108; except that, if the lobbyist or principal of a lobbyist receives a meal in return for a portion of the payment, only the amount of the payment in excess of the value of the meal shall be considered a contribution to the political party. The political party shall determine the value of the meal received for such payment, which shall approximate the actual value of the meal.

(IV) A gift of a meal described in subparagraph (III) of this paragraph (c) by a lobbyist or a principal of a lobbyist to an incumbent in or a candidate elected to any office described in paragraph (a) of this subsection (1) shall be reported as follows:

(A) The lobbyist shall report the value of the meal in the lobbyist disclosure statement filed pursuant to section 24-6-302, C.R.S.

(B) The incumbent or candidate shall report the value of the meal in the public official disclosure statement filed pursuant to section 24-6-203, C.R.S.

#### **1-45-106. Unexpended campaign**

**contributions.** (1) (a) (I) Subject to the requirements of section 3 (3) (e) of article XXVIII of the state constitution, unexpended campaign contributions to a candidate committee may be:

(A) Contributed to a political party;

(B) Contributed to a candidate committee established by the same candidate for a different public office, subject to the limitations set forth in section 1-45-105.3 (4) (b) and (c), if the candidate committee making such a contribution is affirmatively closed by the candidate no later than ten days after the date such a contribution is made;

(C) Donated to a charitable organization recognized by the internal revenue service;

(D) Returned to the contributors, or retained by the committee for use by the candidate in a subsequent campaign.

(II) In no event shall contributions to a candidate committee be used for personal purposes

not reasonably related to supporting the election of the candidate.

(III) A candidate committee for a former officeholder or a person not elected to office shall expend all of the unexpended campaign contributions retained by such candidate committee, for the purposes specified in this subsection (1), no later than nine years from the date such officeholder's term expired or from the date of the election at which such person was a candidate for office, whichever is later.

(b) In addition to any use described in paragraph (a) of this subsection (1), a person elected to a public office may use unexpended campaign contributions held by the person's candidate committee for any of the following purposes:

(I) Voter registration;

(II) Political issue education, which includes obtaining information from or providing information to the electorate;

(III) Postsecondary educational scholarships;

(IV) To defray reasonable and necessary expenses related to mailings and similar communications to constituents;

(V) Any expenses that are directly related to such person's official duties as an elected official, including, but not limited to, expenses for the purchase or lease of office equipment and supplies, room rental for public meetings, necessary travel and lodging expenses for legislative education such as seminars, conferences, and meetings on legislative issues, and telephone and pager expenses.

(2) (Deleted by amendment, L. 2000, p. 123, § 4, effective March 15, 2000.)

(3) Unexpended contributions to an issue committee may be donated to any charitable organization recognized by the Internal Revenue Service or returned to the contributor.

(4) This section shall apply to unexpended campaign contributions transferred from a political committee formed prior to January 15, 1997, to a candidate committee registering after January 15, 1997, pursuant to section 1-45-108.

(5) Notwithstanding any other provision of law, any unexpended campaign contributions retained by a candidate committee for use in a subsequent election cycle shall be counted and reported as contributions from a political party in any subsequent election in accordance with the requirements of section 3 (3) (e) of article XXVIII of the state constitution.

#### **1-45-107. Independent expenditures. (Repealed)**

**1-45-108. Disclosure - repeal.** (1) (a) (I) All candidate committees, political committees, issue

committees, small donor committees, and political parties shall report to the appropriate officer their contributions received, including the name and address of each person who has contributed twenty dollars or more; expenditures made, and obligations entered into by the committee or party.

(II) In the case of contributions made to a candidate committee, political committee, issue committee, and political party, the disclosure required by this section shall also include the occupation and employer of each person who has made a contribution of one hundred dollars or more to such committee or party.

(III) Any person who expends one thousand dollars or more per calendar year on electioneering communications shall report to the secretary of state, in accordance with the disclosure required by this section, the amount expended on the communications and the name and address of any person that contributes more than two hundred fifty dollars per year to the person expending one thousand dollars or more on the communications. If the person making such contribution of two hundred fifty dollars or more is a natural person, the disclosure required by this section shall also include the person's occupation and employer.

(b) (Deleted by amendment, L. 2003, p. 2158, § 3, effective June 3, 2003.)

(c) A candidate committee in a special district election shall not be required to file reports under this section until the committee has received contributions or made expenditures exceeding twenty dollars in the aggregate.

(d) For purposes of this section, a political party shall be treated as a separate entity at the state, county, district, and local levels.

(e) A candidate's candidate committee may reimburse the candidate for expenditures the candidate has made on behalf of the candidate committee. Any such expenditures may be reimbursed at any time. Notwithstanding any other provision of law, any expenditure reimbursed to the candidate by the candidate's candidate committee within the election cycle during which the expenditure is made shall be treated only as an expenditure and not as a contribution to and an expenditure by the candidate's candidate committee. Notwithstanding the date on which any such expenditure is reimbursed, the expenditure shall be reported at the time it is made in accordance with the requirements of this section.

(2) (a) (I) Except as provided in subsections (2.3), (2.5), (2.7), and (6) of this section, such reports that are required to be filed with the secretary of state shall be filed:

(A) Quarterly in off-election years no later than the fifteenth calendar day following the end of the applicable quarter;

(B) On the first Monday in July and on each Monday every two weeks thereafter before the primary election if reports can be filed electronically through a website on the internet with the secretary of state by July 1, 2000; except that nothing in this sub-subparagraph (B) shall require filing by such means;

(C) On the first day of each month beginning the sixth full month before the major election; except that no monthly report shall be required on the first day of the month in which the major election is held;

(D) On the first Monday in September and on each Monday every two weeks thereafter before the major election;

(E) Thirty days after the major election in election years; and

(F) Fourteen days before and thirty days after a special legislative election held in an off-election year.

(II) Such reports that are required to be filed with the county clerk and recorder or with the municipal clerk shall be filed on the twenty-first day and on the Friday before and thirty days after the primary election, where applicable, and the major election in election years and annually in off-election years on the first day of the month in which the anniversary of the major election occurs.

(III) For purposes of this section, "election year" means every even numbered year for political parties and political committees and each year in which the particular candidate committee's candidate, or issue committee's issue, appears on the ballot; and "major election" means the election that decides an issue committee's issue and the election that elects a person to the public office sought by the candidate committee's candidate.

(IV) If the reporting day falls on a weekend or legal holiday, the report shall be filed by the close of the next business day.

(b) The reports required by this section shall also include the balance of funds at the beginning of the reporting period, the total of contributions received, the total of expenditures made during the reporting period, and the name and address of the financial institution used by the committee or party.

(c) All reports filed with the secretary of state pursuant to this subsection (2) shall be for the reporting periods established pursuant to rules promulgated by the secretary of state in accordance with article 4 of title 24, C.R.S.

(d) A candidate committee for a former officeholder or a person not elected to office that has no change in the balance of funds maintained by such committee, receives no contributions, makes no

expenditures, and enters into no obligations during a reporting period shall not be required to file a report under this section for such period.

(e) The reporting period for all reports required to be filed with the county clerk and recorder or with the municipal clerk shall close five calendar days prior to the effective date of filing.

(2.3) (a) A candidate committee, political committee, issue committee, small donor committee, political party, or any other person that utilizes the electronic filing system described in section 1-45-109 (6) to file reports with the secretary of state shall have two additional days after each due date prescribed in paragraph (a) of subsection (2) of this section in which to file such reports.

(b) This subsection (2.3) is repealed, effective January 1, 2007.

(2.5) In addition to any report required to be filed with the secretary of state under this section, all candidate committees, political committees, issue committees, and political parties shall file a report with the secretary of state of any contribution of one thousand dollars or more at any time within thirty days preceding the date of the primary election or general election. This report shall be filed with the secretary of state no later than twenty-four hours after receipt of said contribution.

(2.7) Any candidate or candidate committee supporting any candidate, including an incumbent, in a recall election, shall file reports of contributions and expenditures with the appropriate officer fourteen and seven days before the recall election and thirty days after the recall election.

(3) Except as otherwise provided in subsection (3.5) of this section, all candidate committees, political committees, issue committees, small donor committees, and political parties shall register with the appropriate officer before accepting or making any contributions. Registration shall include a statement listing:

(a) The organization's full name, spelling out any acronyms used therein;

(b) A natural person authorized to act as a registered agent;

(c) A street address and telephone number for the principle place of operations;

(d) All affiliated candidates and committees;

(e) The purpose or nature of interest of the committee or party;

(f) Any intent of the candidate committee, political committee, issue committee, small donor committee, or political party to electronically file reports required by this article that may be filed electronically on a web site operated and maintained by the secretary of state pursuant to section 1-45-109.

(3.5) Any political committee that has registered with the federal election commission may file with the appropriate officer a copy of the registration filed with the federal election commission and, insofar as such registration contains substantially the same information required by subsection (3) of this section, the political committee shall be considered to have registered with the appropriate officer for purposes of subsection (3) of this section and, therefore, shall be authorized to accept or make contributions as permitted by law. Any political committee that satisfies the requirements of this subsection (3.5) shall be subject to all other legal requirements pertaining to contributions and disclosure that are applicable to political committees.

(4) For purposes of subsection (3) of this section, a political committee in existence on January 1, 1997, shall register with the secretary of state on or before April 1, 1997, pursuant to the requirements of this act.

(5) The registration and reporting requirements of this section shall not apply to that part of the organizational structure of a political party which is responsible for only the day-to-day operations of such political party at the national level if copies of the reports required to be filed with the Federal Election Commission pursuant to the "Federal Election Commission Act of 1971", as amended, are filed with the secretary of state and include the information required by this section.

(6) Any issue committee whose purpose is the recall of any elected official shall file a committee registration with the appropriate officer within ten business days of receiving its first contribution. Reports of contributions and expenditures shall be filed with the appropriate officer within fifteen days of the filing of the committee registration and every thirty days thereafter until the date of the recall election has been established and then fourteen days and seven days before the recall election and thirty days following the recall election.

**1-45-109. Filing - where to file - timeliness.** (1) For the purpose of meeting the filing and reporting requirements of this article, candidates for state wide office, the general assembly, district attorney, district court judge, or any office representing more than one county, except candidates for school district director; the candidate committees for such candidates; political committees in support of or in opposition to such candidates; issue committees in support of or in opposition to an issue on the ballot in more than one county; small donor committees making contributions to such candidates; and persons expending one thousand dollars or more per calendar year on electioneering

communications shall file with the secretary of state. Candidates in municipal elections, their candidate committees, any political committee in support of or in opposition to such candidate, an issue committee supporting or opposing a municipal ballot issue, and small donor committees making contributions to such candidates shall file with the municipal clerk. Candidates in special district elections, except candidates for director of the regional transportation district; the candidate committees of such candidates; political committees in support of or in opposition to such candidates; issue committees supporting or opposing a special district ballot issue; and small donor committees making contributions to such candidate shall file with the clerk and recorder of the county in which the district court having jurisdiction over the special district pursuant to section 32-1-303, C.R.S., is located. All other candidates, candidate committees, issue committees, political committees, and small donor committees shall file with the county clerk and recorder of the county of their residence. However, a report required to be filed with a county clerk and recorder shall be deemed properly filed if filed electronically pursuant to subsection (8) of this section.

(2) Reports required to be filed by this article are timely if received by the appropriate officer not later than the close of business on the due date. Reports may be filed by fax and are timely if received by the appropriate officer not later than the close of business on the due date only if an original of the report is received by the appropriate officer within seven days of the due date.

(3) In addition to any other reporting requirements of this article, every incumbent in public office and every candidate elected to public office is subject to the reporting requirements of section 24-6-203 C.R.S.

(4) (a) All reports required to be filed by this article are public records and shall be open to inspection by the public during regular business hours. A copy of the report shall be kept by the appropriate officer and a copy shall be made available immediately in a file for public inspection.

(b) Any report that is deemed to be incomplete by the appropriate officer shall be accepted on a conditional basis and the committee or party treasurer shall be notified by mail as to any deficiencies found. If an electronic mail address is on file with the secretary of state, the secretary of state may also provide such notification by electronic mail. The committee or party treasurer shall have seven business days from the date of mailing such notice to file an addendum that cures the deficiencies.

(5) (a) The secretary of state shall establish, operate, and maintain a web site on the internet, or modify, operate, and maintain an existing web site,

so as to allow any person who wishes to review reports filed with the secretary of state's office pursuant to this article electronic read-only access to such reports free of charge.

(b) All reports required to be filed by this article that are electronically filed pursuant to subsection (6) of this section shall be made available on said web site within forty-eight hours after filing. In addition, the web site shall enable a user to produce summary reports based on search criteria that shall include, but not be limited to the reporting period, date, name of the person making a contribution or expenditure, candidate, and committee. The secretary of state may promulgate rules necessary for the implementation of this subsection (5). Such rules shall be promulgated in accordance with article 4 of title 24, C.R.S.

(6) (a) No later than September 1, 2000, or as near to such date as is practicable, the secretary of state shall establish, operate, and maintain a system that enables electronic filing of the reports required by this article by utilizing the internet. The rules for use of the electronic filing system shall be promulgated by the secretary of state in accordance with article 4 of title 24, C.R.S.

(b) In addition to any other method of filing, any person may use the electronic filing system described in paragraph (a) of this subsection (6) in order to meet the filing requirements of this article. Where a person uses such electronic filing system to meet the filing requirements of this article, the secretary of state shall acknowledge by electronic means the receipt of such filing.

(7) (a) No later than January 1, 2002, the secretary of state shall either modify the web site operated and maintained pursuant to subsection (5) of this section or establish, operate, and maintain an additional web site so as to allow any person who wishes to review reports filed with a county clerk and recorder pursuant to this article and electronically transmitted to the secretary of state or electronically filed in accordance with subsection (8) of this section electronic read-only access to such reports free of charge.

(b) Within forty-eight hours after receiving in electronic form from a candidate, candidate committee, issue committee, political committee, small donor committee, person expending one thousand dollars or more per calendar year on electioneering communications, or county clerk and recorder any report required to be filed with a county clerk and recorder pursuant to this article, the secretary of state shall make the report available on the web site described in paragraph (a) of this subsection (7). The web site shall enable a user to produce summary reports based on search criteria that shall include, but not be limited to, the reporting

period, date, name of the person making a contribution or expenditure, candidate, and committee. The secretary of state may promulgate rules necessary for the implementation of this subsection (7). The rules shall be promulgated in accordance with article 4 of title 24, C.R.S.

(8) (a) No later than January 1, 2002, or as near to such date as practicable, the secretary of state shall either modify the electronic filing system operated and maintained pursuant to subsection (6) of this section or establish, operate, and maintain an additional system to enable electronic filing, through utilization of the internet, of reports required to be filed with a county clerk and recorder pursuant to this article.

(b) (I) Before January 1, 2006, each county clerk and recorder who has the technology available to access the internet may use the electronic filing system described in paragraph (a) of this subsection (8) to transmit any report filed with the county clerk and recorder to the secretary of state.

(II) On and after January 1, 2006, each county clerk and recorder shall use the electronic filing system described in paragraph (a) of this subsection (8) to transmit any report filed with the county clerk and recorder to the secretary of state.

(III) A county clerk and recorder shall transmit any report to be transmitted to the secretary of state pursuant to subparagraph (I) or (II) of this paragraph (b) as quickly as practicable. The county clerk and recorder shall convert any report that is not electronically filed into electronic format before transmitting the report to the secretary of state. A county clerk and recorder that does not have the technology available to access the internet shall not transmit reports to the secretary of state pursuant to subparagraph (I) of this paragraph (b). The rules for the use of the electronic filing system shall be promulgated by the secretary of state in accordance with article 4 of title 24, C.R.S.

(c) (I) Before January 1, 2006, any person required to file reports with a county clerk and recorder pursuant to this article may meet the filing requirements by using the electronic filing system described in paragraph (a) of this subsection (8) if the county clerk and recorder has the technology available to access the internet. If the county clerk and recorder does not have the technology available to access the internet, reports shall not be filed electronically.

(II) On and after January 1, 2006, any person required to file reports with a county clerk and recorder pursuant to this article may meet the filing requirements by using the electronic filing system described in paragraph (a) of this subsection (8).

(9) Subsections (1), (7), and (8) of this section shall not be construed to require the

secretary of state to review reports electronically filed by persons required to file reports with a county clerk and recorder pursuant to this article or to impose any enforcement duties upon the secretary of state beyond the duties specified in section 9 of article XXVIII of the state constitution.

**1-45-110. Candidate affidavit - disclosure statement.**

(1) When any individual becomes a candidate, such individual shall certify, by affidavit filed with the appropriate officer within ten days, that the candidate is familiar with the provisions of this article; except that an individual who is a candidate in a special legislative election that filed a candidate affidavit for the preceding general election shall not be required to comply with the provisions of this section, and except that a candidate in a special district election shall file the candidate affidavit or, alternatively, a copy of the candidate's self-nomination and acceptance form or letter submitted in accordance with section 32-1-804.3, C.R.S., if such form or letter contains a statement that the candidate is familiar with the provisions of this article, no later than the date established for certification of the special district's ballot pursuant to section 1-5-203 (3) (a). A candidate in a municipal election may comply with this section by filing a candidate affidavit pursuant to section 31-10-302 (6), C.R.S., if such affidavit contains a statement that the candidate is familiar with the provisions of this article.

(2) (a) Except as provided in paragraph (b) of this subsection, each candidate for the general assembly, governor, lieutenant governor, attorney general, state treasurer, secretary of state, state board of education, regent of the University of Colorado, and district attorney shall file a statement disclosing the information required by section 24-6-202 (2) with the appropriate officer, on a form approved by the secretary of state, within ten days of filing the affidavit required by subsection (1) of this section.

(b) No candidate listed in paragraph (a) of this subsection shall be required to file another disclosure statement if the candidate had already filed such a statement less than ninety days prior to filing the affidavit required by subsection (1) of this section.

(3) Failure of any person to file the affidavit or disclosure statement required under this section shall result in the disqualification of such person as a candidate for the office being sought. Disqualification shall occur only after the appropriate officer has sent a notice to the person by certified mail, return receipt requested, addressed to the person's residence address. The notice shall state that the person will be disqualified as a candidate if the person fails to file



the appropriate document within five business days of receipt of the notice.

(4) Any disclosure statement required by subsection (2) of this section shall be amended no more than thirty days after any termination or acquisition of interests as to which disclosure is required.

(5) If a person is defeated as a candidate or withdraws from the candidacy, that person shall not be required to comply with the provisions of this section after the withdrawal or defeat.

#### **1-45-111. Duties of the secretary of state - enforcement. (Repealed)**

##### **1-45-111.5. Duties of the secretary of state - enforcement.**

(1) The secretary of state shall promulgate such rules, in accordance with article 4 of title 24, C.R.S., as may be necessary to enforce and administer any provision of this article.

(2) A party in any action brought to enforce the provisions of article XXVIII of the state constitution or of this article shall be entitled to the recovery of the party's reasonable attorney fees and costs from any attorney or party who has brought or defended the action, either in whole or in part, upon a determination by the office of administrative courts that the action, or any part thereof, lacked substantial justification or that the action, or any part thereof, was interposed for delay or harassment or if it finds that an attorney or party unnecessarily expanded the proceeding by other improper conduct, including, but not limited to, abuses of discovery procedures available under the Colorado rules of civil procedure. For purposes of this subsection (2), "lacked substantial justification" means substantially frivolous, substantially groundless, or substantially vexatious.

##### **1-45-112. Duties of municipal clerk and county clerk and recorder.**

(1) The municipal clerk and county clerk and recorder shall:

(a) Develop a filing and indexing system for their offices consistent with the purposes of this article;

(b) Keep a copy of any report or statement required to be filed by this article for a period of one year from the date of filing. In the case of candidates who were elected, those candidate's reports and filings shall be kept for one year after the candidate leaves office;

(c) Make reports and statements filed under this article available to the public for inspection and copying no later than the end of the next business day after the date of filing. No information copied from such reports and statements shall be sold or used by any person for the purpose of soliciting contributions or for any commercial purpose.

(d) Upon request by the secretary of state, transmit records and statements filed under this article to the secretary of state;

(e) Notify any person under their jurisdiction who has failed to fully comply with the provisions of this article and notify any person if a complaint has been filed with the secretary of state alleging a violation of this article;

(f) Report apparent violations of law to appropriate law enforcement authorities.

(2) The secretary of state shall reimburse the municipal clerk and the county clerk and recorder of each county at the rate of two dollars per candidate per election to help defray the cost of implementing this article.

##### **1-45-112.5. Immunity from liability for fine or penalty.**

(1) Any individual volunteering his or her time on behalf of a candidate or candidate committee shall be immune from any liability for a fine or penalty imposed pursuant to section 10 (1) of article XXVIII of the state constitution in any proceeding that is based on an act or omission of such volunteer if:

(a) The volunteer was acting in good faith and within the scope of such volunteer's official functions and duties for the candidate or candidate committee; and

(b) The violation was not caused by willful and intentional misconduct by such volunteer.

(2) Subsection (1) of this section shall be administered in a manner that is consistent with section 1 of article XXVIII of the state constitution and with the legislative declaration set forth in section 1-45-102.

#### **1-45-113. Sanctions. (Repealed)**

##### **1-45-114. Expenditures - political advertising - rates and charges.**

(1) No candidate shall pay to any radio or television station, newspaper, periodical, or other supplier of materials or services a higher charge than that normally required for local commercial customers for comparable use of space, materials, or services. Any such rate shall not be rebated, directly or indirectly.

(2) Any radio or television station, newspaper, or periodical that charges a candidate committee a lower rate for use of space, materials, or services than the rate such station, newspaper, periodical, or supplier charges another candidate committee for the same public office for comparable use of space, materials, or services shall report the difference in such rate as a contribution to the candidate committee that is charged such lower rate pursuant to section 1-45-108.

(3) Nothing in this article shall be construed to prevent an adjustment in rates related to

frequency, volume, production costs, and agency fees if such adjustments are offered consistently to other advertisers.

**1-45-115. Encouraging withdrawal from campaign prohibited.** No person shall offer or give any candidate or candidate committee any money or any other thing of value for the purpose of encouraging the withdrawal of the candidate's candidacy, nor shall any candidate offer to withdraw a candidacy in return for money or any other thing of value.

**1-45-116. Home rule counties and municipalities.** Any home rule county or municipality may adopt ordinances or charter provisions with respect to its local elections that are more stringent than any of the provisions contained in this act. Any home rule county or municipality which adopts such ordinances or charter provisions shall not be entitled to reimbursement pursuant to subsection 1-45-112 (2). The requirements of article XXVIII of the state constitution and of this article shall not apply to home rule counties or home rule municipalities that have adopted charters, ordinances, or resolutions that address the matters covered by article XXVIII and this article.

**1-45-117. State and political subdivisions - limitations on contributions.** (1) (a) (I) No agency, department, board, division, bureau, commission, or council of the state or any political subdivision thereof shall make any contribution in campaigns involving the nomination, retention, or election of any person to any public office, nor shall any such entity expend any public moneys from any source, or make any contributions, to urge electors to vote in favor of or against any:

(A) State-wide ballot issue that has been submitted for the purpose of having a title designated and fixed pursuant to section 1-40-106 (1) or that has had a title designated and fixed pursuant to that section;

(B) Local ballot issue that has been submitted for the purpose of having a title fixed pursuant to section 31-11-111 or that has had a title fixed pursuant to that section;

(C) Referred measure, as defined in section 1-1-104 (34.5);

(D) Measure for the recall of any officer that has been certified by the appropriate election official for submission to the electors for their approval or rejection.

(II) However, a member or employee of any such agency, department, board, division, bureau, commission, or council may respond to questions about any such issue described in subparagraph (I)

of this paragraph (a) if the member, employee, or public entity has not solicited the question. A member or employee of any such agency, department, board, division, bureau, commission, or council who has policy-making responsibilities may expend not more than fifty dollars of public moneys in the form of letters, telephone calls, or other activities incidental to expressing his or her opinion on any such issue described in subparagraph (I) of this paragraph (a).

(b) (I) Nothing in this subsection (1) shall be construed as prohibiting an agency, department, board, division, bureau, commission, or council of the state, or any political subdivision thereof from expending public moneys or making contributions to dispense a factual summary, which shall include arguments both for and against the proposal, on any issue of official concern before the electorate in the jurisdiction. Such summary shall not contain a conclusion or opinion in favor of or against any particular issue. As used herein, an issue of official concern shall be limited to issues that will appear on an election ballot in the jurisdiction.

(II) Nothing in this subsection (1) shall be construed to prevent an elected official from expressing a personal opinion on any issue.

(III) Nothing in this subsection (1) shall be construed as prohibiting an agency, department, board, division, bureau, commission, or council of the state or any political subdivision thereof from:

(A) Passing a resolution or taking a position of advocacy on any issue described in subparagraph (I) of paragraph (a) of this subsection (1); or

(B) Reporting the passage of or distributing such resolution through established, customary means, other than paid advertising, by which information about other proceedings of such agency, department, board, division, bureau, or council of the state or any political subdivision thereof is regularly provided to the public.

(C) Nothing in this subsection (1) shall be construed as prohibiting a member or an employee of an agency, department, board, division, bureau, commission, or council of the state or any political subdivision thereof from expending personal funds, making contributions, or using personal time to urge electors to vote in favor of or against any issue described in subparagraph (I) of paragraph (a) of this subsection (1).

(2) The provisions of subsection (1) of this section shall not apply to:

(a) An official residence furnished or paid for by the state or a political subdivision;

(b) Security officers who are required to accompany a candidate or the candidate's family;

(c) Publicly owned motor vehicles provided for the use of the chief executive of the state or a political subdivision;

(d) Publicly owned aircraft provided for the use of the chief executive of the state or of a political subdivision or the executive's family for security purposes; except that, if such use is, in whole or in part, for campaign purposes, the expenses relating to the campaign shall be reported and reimbursed pursuant to subsection (3) of this section.

(3) If any candidate who is also an incumbent inadvertently or unavoidably makes any expenditure which involves campaign expenses and official expenses, such expenditures shall be deemed a campaign expense only, unless the candidate, not more than ten working days after the such expenditure, files with the appropriate officer such information as the secretary of state may by rule require in order to differentiate between campaign expenses and official expenses. Such information shall be set forth on a form provided by the appropriate officer. In the event that public moneys have been expended for campaign expenses and for official expenses, the candidate shall reimburse the state or political subdivision for the amount of money spent on campaign expenses.

(4) Any violation of this section shall be subject to the sanctions authorized in section 1-45-113 or any appropriate order or relief, including injunctive relief or a restraining order to enjoin the continuance of the violation.

**1-45-118. Severability.** If any provision of this article or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the article which can be given effect without the invalid provision or application, and to this end the provisions of this article are declared to be severable.

**COLORADO SECRETARY OF STATE**  
**ELECTION RULES**

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# **COLORADO SECRETARY OF STATE**

## **ELECTION RULES**

### **8 CCR 1505-1**

*These rules were adopted November 10, 2005 and apply to the conduct of, and preparation for, elections occurring on or after such date.*

#### **Rule 1. Definitions**

- 1.1 As used in these Rules and the “Uniform Election Code of 1992” unless the context otherwise requires, the following terms shall have the meanings indicated:  
“District office of state concern” means any of the following offices: Member of the State Board of Education, Member of the Board of Regents of the University of Colorado, and Member of the Board of Directors of the Regional Transportation District.

#### **Rule 2. Rules Concerning Voter Registration**

- 2.1 All requests for lists, printouts, disks, tapes, and other media shall be made in writing.
- 2.2 After a receipt of request, the cost of providing the information shall be determined. The cost must be paid prior to the request being filled.
- 2.3 First Time Voter Who Registers by Mail. Prior to the implementation of the statewide voter registration database, when a first time voter registers to vote by mail, the voter shall provide a copy of one of the forms of identification listed in (a) or provide one of the numbers listed in (b):
- (a) The voter may provide a copy of one of the following forms of identification:
- A valid Colorado driver’s license;
  - A valid identification card issued by the Department of Revenue in accordance with the requirements of Part 3 of Article 2 of Title 42, C.R.S.;
  - A valid U.S. passport;
  - A valid employee identification card with a photograph of the eligible elector issued by any branch, department, agency, or entity of the United States government or of this state, or by any county, municipality, board, authority, or other political subdivision of this state;
  - A valid pilot’s license issued by the federal aviation administration or other authorized agency of the United States;
  - A valid U.S. military identification card with a photograph of the eligible elector;
  - A copy of a current utility bill, bank statement, government check, paycheck, or other government document that shows the name and address of the elector. (A cable bill, a telephone bill, documentation from a public institution of higher education in Colorado containing at least the name, date of birth, and legal residence address of the student elector, or a paycheck from a government institution are sufficient forms of identification);
  - A valid Medicare or Medicaid card issued by the United States Health Care Financing Administration;
  - A certified copy of a U.S. birth certificate for the elector issued in the United States; or
  - Certified documentation of naturalization;

- (b) Or the voter may provide one of the following numbers (without providing a physical copy of the number):
- At least the last four digits of the person's social security number;
  - The person's valid Colorado Driver's License number; or
  - The person's valid Department of Revenue Identification Number issued by the Department of Revenue.
- (i) If the number provided is verified with a number on an existing state identification record per Rule 30.5, the elector shall not be required to supply identification with a mail or absentee ballot.
- (ii) If the number provided cannot be verified with a number on an existing state identification record per Rule 30.5, the elector shall be "ID tagged" and required to supply identification per 1-1-104(19.5) C.R.S. with a mail or absentee ballot.

Authority: 1-2-501(2)(B) C.R.S.; 1-1-104(19.5) C.R.S.

- 2.4 First Time Voter Who Registers in Person. Prior to the implementation of the statewide voter database, when a first time voter registers in person, the voter shall be requested to provide the number of one of the following forms of identification:

- Valid Colorado Driver's License number; or
- Valid Department of Revenue Identification number; or
- At least the four last digits of the person's social security number.

Authority: 1-2-204(2)(f.5) C.R.S.

2.4.1 Prior to the implementation of a statewide voter registration database, if a voter registering in person does not have a valid Colorado driver's license, a current and valid identification card issued by the department of revenue or a social security number, the election official shall assign the applicant a unique identifier that will serve to identify the applicant for voter registration purposes. See 1-2-204(2.5) C.R.S.

- 2.5 Confidentiality of Agency in Voter Registration. For Voter Registration Applications completed pursuant to Part 5 of Article 2 of Title 1, C.R.S., at an agency designated by the National Voter Registration Act of 1993, no information regarding the name and location of the designated voter registration agency shall be provided to the public, and such information shall remain confidential.

- 2.6 Emergency Registration Application. Prior to the implementation of the statewide voter registration database, when an elector completes an emergency registration application pursuant to 1-2-217.5 (1)(b) C.R.S., the elector shall be required to present one of the following forms of identification set forth in Rule 2.3(a):

- 2.7 Confidentiality of Voter Information. Pursuant to 24-72-204(3.5)(b)(II) and (IV) C.R.S., the county clerk and recorder of the county where the individual resides shall provide an opportunity to make the request of confidentiality in person at the time such individual registers to vote or make any change in the individual's registration, and at any other time during the normal business hours of the office of the county clerk and recorder.

2.7.1 The voter's name, address, and birth date shall be listed on the confidentiality application. A confidentiality affirmation shall be printed on the form, in the area immediately above a line for the applicant's signature and the date. The affirmation shall state the following:

“I swear or affirm, under penalty of perjury, that I have reason to believe that I or a member of my household will be exposed to criminal harassment, or otherwise be in danger of bodily harm, if my address is not kept confidential”

- 2.7.2 Immediately below the signature line, there shall be a printed notice, in a type that is larger than the other information contained on the form, that the applicant may be prosecuted for perjury in the second degree under 18-8-503 C.R.S., if the applicant signs such affirmation and does not believe such affirmation to be true.
- 2.7.3 A voter making an address change within the same county shall not be charged an additional processing fee.

### **Rule 3. Rules Concerning Qualified Political Organizations**

- 3.0 Qualified Political Organization as identified by order of the 10th Circuit Court of Appeals (Baer v. Meyer, 728 F2d 471, 10th Cir. 1984).
- 3.1 A qualified political organization is one which has placed a candidate for a congressional district or state office on the ballot at a congressional vacancy or general election and whose officers have filed the required proof of organization with the Secretary of State and continues to meet the requirements of 3.3 and 3.4.
- 3.2 The required proof of organization, which may be filed at any time after organization, shall include, but shall not be limited to:
  - a. By-laws of the Colorado political organization which shall include the method for selecting officers, selecting delegates to county, state, and national conventions, and selecting candidates planning to petition onto the state’s general election ballot using the name of the Colorado political organization;
  - b. The names, addresses, and telephone numbers of the elected Colorado chairperson, vice chairperson, and secretary, together with the names, addresses, and telephone numbers of all other members elected or appointed to other offices or committees authorized by the by-laws.
- 3.3 Qualified political organizations shall meet once a year.
  - 3.3.1 The meeting in the odd-numbered year shall be held for the purpose of electing a chairperson, vice-chairperson, secretary and other officers or committees as shall be provided for in the by-laws on file with the Secretary of State.
    - (a) For new political organizations, this meeting must take place prior to placing a candidate on the ballot. Therefore, this meeting may occur in an even-numbered year.
  - 3.3.2 The chairperson and the secretary shall file a full and complete list, under oath, of the persons elected or appointed pursuant to Rule 3.2, together with any amendments to the by-laws adopted at the meeting.
  - 3.3.3 The meeting in the even-numbered year shall be held for the purpose of selecting candidates who wish to use the name of the political organization on petitions for the next general election.
    - (a) A political organization which has not yet been qualified may select its candidate at the same meeting where the officers of the organization are named.
- 3.4 A qualified political organization shall place a candidate or candidates on the general election ballot every two years.
  - 3.4.1 Candidates wishing to represent a qualified political organization on the general



- election ballot shall be placed in nomination by nominating petition pursuant to 1-4-802 C.R.S.
- 3.4.2 Each petition shall contain the name of one candidate and shall have attached an affidavit signed under oath by the chairperson and secretary of the qualified political organization. The affidavit form shall be approved by the Secretary of State and will include the date of the meetings required in Rule 3.3.
  - 3.4.3 For a candidate to qualify for the ballot, the candidate must have been affiliated with the qualified political organization for one year, or if the political organization has not previously been qualified, the candidate must have been registered as unaffiliated for one year.
  - 3.4.4 Having the name of a candidate from the qualified political organization appear on the ballot by the use of the write-in candidacy process shall not be considered as, nor meeting the requirements of, placing a qualified candidate on the general election ballot.
- 3.5 A political organization shall be qualified as soon as it:
- (a) Files proof of organization with the Secretary of State;
  - (b) Meets to name a candidate to the general election ballot; and
  - (c) Certifies a candidate to the general election ballot.
- 3.6 Once a political organization becomes a qualified political organization, eligible electors shall be able to register as affiliated with the political organization.
- 3.6.1 When an individual appears at any office or location for the purpose of voter registration, the questions asked and the information recorded shall be amended to reflect “political organization” affiliation.
  - 3.6.2 The opportunity to declare or change a political affiliation shall be provided exactly as the law provides for political parties in 1-2-204(2)(j) C.R.S. and 1-2-219 C.R.S.
  - 3.6.3 At any time a declaration or change in affiliation is requested, the same procedure shall be used for declaring a political party or political organization affiliation.
  - 3.6.4 In recording the information on the voter registration page, or affidavit, the affiliation with a political organization shall be listed by the name entry of the organization.
  - 3.6.5 In converting information on the voter registration page to lists, submissions for data entry, the Secretary of State’s master voter registration list, etc., standard abbreviations shall be used and will be furnished to the county clerk and recorders by the Secretary of State.
- 3.7 Political organizations shall lose their status as qualified political organizations by failing to do any one of the following:
- (a) Meet in odd-numbered years and file their list of officers with the Secretary of State, unless excused under Rule 3.3.1(a);
  - (b) Meet in even-numbered years and select a candidate or candidates who wish to appear on the ballot at the next general election;
  - (c) Place a candidate on a general election ballot through a nominating petition, meeting the requirements of Rule 3.4.
- 3.8 The Secretary of State will notify the county clerk and recorders by June 1 of each odd-numbered year of the loss of qualified status of a political organization. Upon receiving notification, the county clerk and recorders shall mark on every affected voter registration

record “unaffiliated.”

- 3.9 Print-outs, lists, tapes, etc. of voter registration records shall be furnished to qualified political organizations at the same rate or cost as charged to political parties. The only exception to this provision shall be the list furnished to the major political parties prior to the statutory precinct caucus day.
- 3.10 On all summary reports of voter registration by political party, the report shall list those registered with major political parties, minor political parties, qualified political organizations, or as unaffiliated.
- 3.11 Electors, whose voter registration record shows affiliation with a qualified political organization and who appear to vote at a primary election, shall complete a Declaration of Party Affiliation, thus losing affiliation with the qualified political organization.

**Rule 4. Rules Concerning Circulation of Candidate Petitions**

- 4.1 No petition for candidacy for any non-partisan office shall be circulated prior to 90 days before the election, except as provided in 1-4-805 C.R.S.

**Rule 5. Rules Concerning Non-Partisan Elections Not Coordinated by the County Clerk**

- 5.1 For elections conducted on days other than described in section 1-7-116 (1) C.R.S., nothing shall preclude the designated election official from mailing the notice required by Article X, Section 20 of the Colorado Constitution to persons who are not eligible electors, if such mailing is done at the “least cost” possible.
- 5.2 If there are no appropriate polling place locations within the political subdivision conducting the election, a polling place may be designated outside of the political subdivision in a location that is convenient for the eligible electors of such political subdivision.
- 5.3 For elections not conducted in November and not coordinated with the county clerk and recorder, the ballot issue or question shall be identified by the name of the jurisdiction submitting the ballot issue or ballot question followed by a number in the case of initiatives or by a letter in the case of referred measures.
- 5.4 Elections authorized under Part 1, Article 45 of Title 37, C.R.S. (Water Conservancy Act), shall be conducted in accordance with Articles 1 through 13 of Title 1, C.R.S., where applicable, unless otherwise ordered by the district court having jurisdiction over the water conservancy district, pursuant to 37-45-103 (3), C.R.S. (“Court”).
- 5.4.1 The form and verification of any petition requesting an election conducted by a water conservancy district pursuant to 37-45-114 (2), C.R.S. (“Petition”), shall conform with the requirements of 1-40-113 and 1-40-116, C.R.S. and the sections cited therein, and Rule 22 of these rules; except that no prior approval of the form of such election petition needs to be provided by the Secretary of State, the petition shall be filed with the Court and the verification process shall be directed by the water conservancy district named in the petition rather than the Secretary of State, and the “warning” language appearing on the petition shall be applicable to the election requested to be conducted.
- 5.4.2 The procedures for issuing the statement of sufficiency or insufficiency of the petition shall conform with the requirements of 1-40-117, C.R.S. and Rule 22.4 of these rules; except that such statement shall be issued by the water conservancy district named in the petition, unless otherwise ordered by the Court.
- 5.4.3 The procedures for cure of a petition deemed insufficient shall conform with the requirements of 1-40-117, C.R.S. and Rule 19 of these rules; except any

- addendum to the petition shall be filed with both the Court and the water conservancy district named in the petition, unless otherwise ordered by the Court.
- 5.4.4 The procedures for protesting the determination that a petition is insufficient shall conform with the requirements of 1-40-118, C.R.S. and Rule 20 hereof, unless otherwise ordered by the Court.
- 5.4.5 Upon final determination of the sufficiency of a petition, the court shall order, regardless of the actual expiration date of the term of the office subject to the court-ordered election, the holding of the election to be conducted no more than 100 days nor less than 60 days from the date of such Court order, unless the water conservancy district has notified the Court that such election is to be conducted as a coordinated election pursuant to 1-7-116, C.R.S.
- 5.4.6 The form and procedures for filing candidate nomination forms and call for nominations of persons desiring to be a candidate for the office to be voted upon at the Court-ordered election described in Rule 5.4.5 of these rules, shall be in conformance with the form and procedures required for special districts under Article 1, Title 32, C.R.S., unless otherwise ordered by the Court.
- 5.5 Non-Partisan Elections: Polling Place Procedures.
- 5.5.1 For polling place elections being conducted in accordance with Article 1, Title 32, C.R.S., upon execution of the self-affirming oath or affirmation pursuant to 32-1-806(2) C.R.S., the eligible elector desiring to vote shall show his or her identification as defined in 1-1-104(19.5), C.R.S. to one of the election judges. *See* 1-7-110(1) C.R.S.
- 5.5.2 If the eligible elector has executed the self-affirming oath or affirmation and provided his or her identification, such eligible elector may be allowed to vote, if such vote is not challenged. *See* 1-7-110(2) and 32-1-806(4) C.R.S.
- 5.5.3 The election supplies provided to the supply judge of each polling place shall include an adequate number of provisional ballot envelopes that include the affidavit set forth in Rule 26.8.
- 5.5.4 The signature and date on the provisional ballot affidavit envelope shall remain on the outside of the envelope.
- 5.5.6 The provisional ballot affidavit envelope shall be numbered to correspond to the number of the provisional elector's name in the poll book, and the word "provisional" shall be marked on the ballot.
- 5.5.7 Verification of Information in Provisional Ballot Affidavit. The designated election official shall verify the information contained in the provisional ballot affidavit pursuant to Rule 26. If the information contained in the affidavit provides adequate criteria such that the designated election official, using the Rule 26 search, can ascertain the registration of the elector, the provisional ballot shall count. If the information cannot be verified, the ballot shall be rejected. *See* 1-8.5-105 and Rule 26.
- 5.5.8 The verification and counting of all provisional ballots shall be completed prior to the certification of the official abstract of votes cast in the election by the canvass board, pursuant to Section 1-10-203(1), C.R.S.
- 5.5.9 Canvassing Board's Count of Provisional Ballots. If, after the expiration of twelve days following an election, the election judges cannot complete the count of the provisional ballots cast, the canvassing board appointed pursuant to Section

- 1-10-201(1.5), C.R.S. shall complete the count of such provisional ballots.
- 5.5.10 If 25 or more provisional ballots have been cast and counted, the results shall be reported as one total. If less than 25 provisional ballots have been cast and counted, the results shall be included in the results of the absentee ballots counted in the election.
- 5.5.11 The provisional ballot shall not be counted if the elector failed to complete the affidavit on the envelope or the elector was not registered by the deadline in the State of Colorado.
- 5.5.12 A copy of the provisional ballot affidavit shall be provided to the county clerk and recorder of the county of the elector's residence, and shall constitute a voter registration for future elections. *See* 1-8.5-108 C.R.S.

## **Rule 6. Rules Concerning Coordinated Elections**

- 6.1 Participation in coordinated elections.
- 6.1.1 For elections where the electors do not need to be registered electors, political subdivisions may conduct their own elections and must coordinate with the coordinated election official any ballot issue notice required by Article X, Section 20 of the Colorado Constitution.
- 6.1.2 The affected political subdivision shall enter into intergovernmental agreements which delineate which tasks shall be the responsibility of the designated election official of the political subdivision and which shall be the responsibility of the coordinated election official.
- 6.2 Form of election for November coordinated elections.
- 6.2.1 The county clerk and recorder is the election official for coordinated elections which are held in November of each year.
- (a) The county clerk and recorder shall be responsible for mailing the Article X, Section 20 Ballot Issue notice.
- (b) The county clerk and recorder shall not be required to conduct more than one form of election unless he or she so chooses.
- 6.2.2 If the county clerk and recorder, after consultation with the other political subdivisions, elects to conduct a mail ballot election, upon application to and approval by the Secretary of State showing why a separate mail ballot election is needed and why it will benefit the electorate, a political subdivision may conduct its own mail ballot election.
- 6.2.3 School districts that have the opportunity to participate in a coordinated election may not elect to hold separate mail ballot elections but must participate in the form of election chosen by the county clerk and recorder.
- 6.3 Form of coordinated elections held other than in November.
- 6.3.1 For all other elections where political subdivisions hold an election on the same day, the electors or boundaries overlap and ballot issues as defined in Section 1-1-104 (2.3), C.R.S., appear on the ballot of overlapping jurisdictions, the governing bodies or the designated election officials of such overlapping jurisdictions must name a coordinated election official who is responsible for assuring that the Article X, Section 20 notice is given.
- 6.3.2 The political subdivisions may contract with the appropriate county clerk and recorder to be the coordinated election official.
- 6.4 Determination of ballot issues and texts.

- 6.4.1 Each political subdivision shall prepare the list of candidates and the ballot title and text for ballot issues and ballot questions, as required by law.
- (a) The coordinated election official shall assure that the ballot title is on each ballot as required by law.
  - (b) Political subdivisions may only require the coordinated election official to print the entire text of a ballot issue or ballot question on the ballot if they pay for any additional cost associated with printing and if sufficient space is on the voting equipment to print the entire text given the other issues, questions, and candidates on the ballot. The coordinated election official shall tell the political subdivision how much space is available for text for each position on the ballot. If the required ballot title and text is too long for the voting equipment, the coordinated election official may choose to conduct the election with a different form of ballot.
  - (c) For counties where ballot election material must be printed in languages other than English, the political subdivisions are responsible for assuring proper translation of all election materials related to that political subdivision and must pay their pro-rata share of increased printing costs unless otherwise provided by the intergovernmental agreement.
  - (d) For counties where election material is not required to be printed in languages other than English, the political subdivisions are not required to provide translation of all election materials nor pay a pro-rata share of the printing costs unless they so agree.
- 6.4.2 Each political subdivision shall determine the order of the ballot issues for their political subdivision in accordance with the requirements of Colorado Constitution Article X, Section 20 and Title 1.
- (a) Initiatives shall be designated by a number; referred measures shall be designated by a letter or by a number and a letter.
  - (b) For each grouping of ballot issues and ballot questions by a political subdivision, all initiatives shall precede all referred measures.
  - (c) For each grouping of ballot issues and ballot questions, the order shall be as follows:
    - 1. Initiatives to increase taxes;
    - 2. Initiatives to increase debt;
    - 3. Other citizen petitions;
    - 4. Referred measures to increase taxes;
    - 5. Referred measures to increase debt;
    - 6. Other referred measures.
  - (d) For statewide measures, initiatives shall be numbered in the order in which the statements of sufficiency are issued. The numbers one through five shall be reserved for initiatives to increase taxes; the numbers six through ten shall be reserved for initiatives to increase debt; all other citizen petitions shall be numbered consecutively beginning with eleven.
  - (e) Ballot issues from the various political subdivisions shall be ordered on the ballot as provided in 1-5-407 (5) C.R.S:
    - 1. Each category of initiated ballot issues and questions shall be numbered in the following series:

01-99	State Issues
100-199	County Issues
200-299	Municipal Issues
300-399	School District Issues
400-499	Ballot Issues and Questions for other political subdivisions greater than a county.
500-599	Ballot Issues and Questions for other political subdivisions which are wholly within a county.

2. Each category of referred ballot issues and questions shall be designated by a letter or a number and a letter in the following series:

A-Z	State Issues
1A-1Z	County Issues
2A-2Z	Municipal Issues
3A-3Z	School District Issues
4A-4Z	Ballot Issues and Questions for other political subdivisions greater than a county.
5A-5Z	Ballot Issues and Questions for other political subdivisions which are wholly within a county.
6A-6Z	Other Issues and Questions

3. Ballot questions and issues are numbered or lettered in the order in which the measures are certified to the ballot by the designated election official after the protest period has ended, or if a protest was filed after the protest has been completed.
4. For other than state issues, if a county has multiple cities and/or multiple discrete school districts and other political subdivisions, the designated election official may either further subdivide the series and assign each political subdivision a specific series of numbers, or when the ballot is certified the designated election official may assign the final numbers/letters, making sure that all measures for each political subdivision are grouped together.
5. For other than state issues and questions, if the same ballot issue or question will be on the ballot in more than one county, the county clerks shall confer with one another and shall give the same ballot number or letter to the ballot issue or questions.
6. Each ballot question or issue shall contain the name of the political subdivision at the beginning of the ballot questions or issue. If the designated election official chooses, the name of the political subdivision may appear before the grouping of questions, such as State Ballot Questions, Arapahoe County Ballot Questions, City of Aurora Ballot Questions, etc.

#### 6.4.3 General Provisions

- (a) The coordinated or designated election official may include the following statement with the ballot issue notice: “This notice is mailed to each address with one or more active, registered electors. You may not be eligible to vote on all issues presented in this notice.”
  - (b) The coordinated or designated election official may include the following statement on the ballot issue notice: “The following is a summary of comments filed in favor of, or opposed to, the ballot issue.”
- 6.5 Colorado Constitution Article X, Section 20 notice requirements.
  - 6.5.1 The state and local governments, excluding enterprises, have sole responsibility for drafting and distribution of the notice required by Article X, Section 20. Any or all of the responsibilities may be delegated to the coordinated election official in the intergovernmental agreement.
  - 6.5.2 The notice shall be mailed to “All Registered Voters” at the mailing addresses of active registered electors in the county, as indicated on the voting record.
    - (a) Nothing shall preclude the coordinated or designated election official from sending notice of various elections to persons who are not eligible electors if the notice sent is part of the coordinated notice and if the sending arises from the official’s efforts to mail the notice at “least cost”.
    - (b) Nothing shall preclude the coordinated or designated election official from sending notice to each household in the county or political subdivision whether or not registered electors reside at that household as long as notice is sent which assures that all active registered electors are included on the mailing list.
    - (c) Nothing shall preclude the coordinated or designated election official from sending notice to each registered elector in a particular political subdivision.
  - 6.5.3 The coordinated election official must include information in the package sent with the notice that tells electors whether the election is a mail ballot election, a polling place election, a vote center election or a combination of election forms.
    - (a) If the election is a polling place election or a vote center election, the notice of the location of the polling place or vote center may be included in the consolidated mailing.
    - (b) If a separate mail ballot election is being held by a political subdivision in the county at the same time as a polling place election or a vote center election, the notice shall include that information. 1-5-205 C.R.S.
  - 6.5.4 If state statute allows the ballot issue notice and the ballot to be mailed at the same time, the ballot for the mail ballot election may be included with the notice.
  - 6.5.5 The political subdivisions must provide all completed Article X, Section 20 notices in camera ready format or as otherwise specified.
  - 6.5.6 The coordinated election official shall not be responsible for failure to meet the Article X, Section 20 constraints if the notice and summaries are not submitted by the political subdivision within the deadline and in the form required by the coordinated election official.
    - (a) The summaries of comments for and against ballot issues shall not include language of a generally recognized profane, indecent, immoral, offensive, scandalous or libelous character. No names of persons or private groups

shall be included in any summary.

- (b) For purposes of counting words and to verify the five hundred constitutional limit for each “pro” and each “con” summary, a hyphenated word, unless it is divided by a continuation hyphen at the end of a line, counts as two or more words. A number counts as one word, regardless of dollar signs, commas or periods within the number.

- 6.6 Written comments concerning ballot issues submitted to the designated election official for the political subdivision shall not be withdrawn after the end of the business day on the last Friday immediately preceding the forty-fifth day before the election.

#### **Rule 7. Rules Concerning Polling Places**

- 7.1 Polling place materials shall include, where applicable, HAVA information, voting demonstration display, signature card table, registration records or lists, poll books, electronic or paper, or completed signature cards, paper ballots and voting booths or DRE, provisional voting area or procedure and ballot box if provided.
- 7.2 For coordinated elections, polling places do not have to be within the political subdivisions which are participating in the election.
- 7.3 Polling places for partisan elections must be established no less than ninety days prior to an election and may only be changed pursuant to 1-5-108 in the event of an emergency or an error in precincting.
- 7.4 In the event the polling place is to be in a temporary structure that is not present at the time, a polling place notice is to be posted pursuant to 1-5-106, C.R.S., the future location of the polling place shall nonetheless be posted at the required time, and notice shall continuously remain posted until 48 hours after the polling place is closed.

#### **Rule 8. Rules Concerning Watchers**

- 8.1 Definitions:
  - 8.1.1 “Official Observer” means either an observer appointed by the Secretary of State or an observer appointed by the federal government and approved by the Secretary of State. Official Observers may be present in all phases of the election process, but are subject to rules and regulations as prescribed by the Secretary of State and perform duties as may be assigned by the Secretary of State.
  - 8.1.2 “Watcher” shall mean an eligible elector other than a candidate on the ballot who has been selected by a political party chairperson on behalf of the political party, by a party candidate at a primary election, by an unaffiliated candidate at a general, congressional vacancy or nonpartisan election or by a person designated by either the opponents/proponents in the case of a ballot issue or ballot question. If selected by a political party chairperson, a party candidate, or an unaffiliated candidate, the watcher shall be affiliated with that political party or unaffiliated as shown on the registration books of the county clerk and recorder. See 1-1-104(51) C.R.S.
  - 8.1.3 “Media Observer” shall mean an observer with valid and current media credentials from the media who shall adhere to the formal document “Guidelines for Members of the Media Who Observe Election Counts and Recounts” dated June 2004, as may be amended, which are incorporated herein by this reference for all proper purposes.
- 8.2 Qualification of Watchers. Watchers shall certify they are qualified pursuant to 1-1-



- 104(51), 1-7-105, 1-7-106, 1-7-107 and 1-7-108(2) C.R.S. Watchers shall take an oath as provided in 1-7-108(1) and shall, upon first entering the precinct place or location, surrender to the election official or election judges a certificate of appointment at each precinct polling place or location where the watcher has been designated to act.
- 8.2.1 If a watcher leaves a precinct and the same watcher returns later in the day to the same precinct, another certificate of appointment is not necessary and shall not be required. The original certificate of appointment will suffice.
- 8.2.2 If a watcher is replaced during the day, the watcher replacing the original watcher must have an original certificate of appointment for that precinct.
- 8.2.3 Certificate of appointment as a watcher is not transferable to another individual.
- 8.3 Political party attorneys are not allowed in the polling place unless they are duly appointed as watchers.
- 8.4 Watchers are not allowed to have cell phones, cameras, recording devices, laptops or PDAs (Palm Pilot, Blackberry, etc.) in the polling place.
- 8.5 List of Eligible Electors. To assist Watchers in performing their tasks, the election official or election judge shall provide a list, log, check-in card or other similar information of voters who have appeared in the precinct polling place to vote. The information or documents shall not be removed from the polling place or voting location. Watchers may maintain a list of eligible electors who have voted by utilizing only that information provided by the election official or election judge, except that they may bring with them into the polling place or location a list of electors previously maintained by the Watcher. 1-7-108(3) C.R.S.
- 8.6 Watchers shall be subject to the provisions of 1-5-503 C.R.S.
- 8.7 What Watchers May Observe. Duly appointed Watchers may observe polling place voting, early voting and the processing and counting of precinct, provisional, mail, and absentee ballots. For mail ballot elections, or absentee processing, watchers may be present at each stage of the election including the receiving and bundling of the ballots received by the designated election official. Watchers may be present during provisional ballot processing but may not have access to confidential voter information.
- 8.8 Limitations of Watchers. Duly appointed Watchers may observe election judges but may not interrupt or disrupt the processing, verification and counting of any ballots or any other stage of the election. Watchers may track the names of electors who have cast ballots by utilizing their previously obtained lists, but may not write down any ballot numbers or any other identifying information about the electors. Watchers may not handle the poll books, official signature cards, ballots, mail ballot envelopes, absentee ballot envelopes or provisional ballot envelopes, voting or counting machines or machine components. Watchers shall not interfere with the orderly process and conduct of any election, including ballot issuance, receiving of ballots, voting or counting of the ballots. Watchers may not be allowed to interact with election officials or election judges, except that each designated election official shall name at least one individual in each precinct polling place or election location to whom Watchers may direct questions or from whom watchers may seek requested information.
- 8.9 Parties May Appoint Watchers. Major and minor political parties with candidates on the ballot may appoint one Watcher each to be present to observe polling place voting, early voting, and the processing and counting of regular, provisional, mail and absentee ballots. *See 1-7-105; 1-7-106 C.R.S.*

- 8.10 Official Observers Appointed by the Federal Government. Official Observers appointed by the federal government shall be approved by the Secretary of State and shall be subject to Colorado law and these rules as they apply to Watchers; however, they need not be eligible electors in the jurisdiction in which they act as Watchers. This Rule shall not apply to Official Observers appointed by the United States Department of Justice. Official Observers appointed by the Secretary of State shall be subject to the rules and regulations as prescribed by the Secretary of State. Official Observers shall obtain from the Secretary of State, or his or her designee, duly executed letters of authority. The Official Observers shall surrender such letter of authority to the designated election official in the jurisdiction in which they act as Watchers.
- 8.11 Watchers, Official Observers and Media Observers at a Recount. Watchers, Official Observers and Media Observers may be present at a recount. Watchers, Official Observers and Media Observers must be qualified and sworn for a recount in the same manner as provided in Rule 8.2 and are subject to all other provisions related to the recount process. Any political party, candidate involved in the recount or proponents or opponents of an issue or question involved in the recount may appoint one Watcher to be present at any time during the recount. The candidate who is subject to a recount may appoint him or her self, or a member of the candidate's family by blood or marriage, as a watcher at a recount. *See* 1-7-105; 1-7-106 C.R.S.
- 8.12 Media Observers. Media Observers with valid and current media credentials may be present to witness early voting, election day voting and the processing and counting of provisional, mail and absentee ballots. However, at the discretion of the county clerk and recorder, Media Observers may be required to appoint one member of the media as a pool reporter, and one member as a pool photographer to represent all media observers in accordance with the Guidelines established by the Colorado Press Association in conjunction with the Colorado County Clerks' Associations and the Secretary of State as set forth herein:

Guidelines for Member of the Media Who Observe Election Counts and Recounts (to be distributed to members of the Colorado Press Association):

The Colorado State Association of County Clerks and Recorders, Colorado Broadcasters' Association and Colorado Press Association have collaborated to develop the following guidelines and protocols for use when members of the media observe the counting or recounting of ballots. You are strongly encouraged to follow these guidelines to allow meaningful media access while not disrupting the work of county clerks to count ballots or doing anything to compromise the integrity of the election process.

1. If practical, please contact the election official's office prior to coming to observe the counting of ballots. If the election official knows you are coming, it will be easier to accommodate your request for a place to observe the count or to interview an election official.
2. At the discretion of the election official, a specific viewing area for members of the media and other observers may be available. To the extent practicable, the area will have been designated with sight lines to allow you to observe and take pictures or video of the counting process. If there are insufficient sight lines for you to take the photos or video you need, the election official may be able to make arrangements to accommodate your needs.
3. Please observe counting procedures without disrupting the count. Please take

pictures or video without the use of supplemental lighting. Do not talk to people participating in counting ballots. There may be workers who ask you not to include their images in your pictures or video. We encourage you to honor those requests if you can reasonably do so.

4. The Secretary of State's election rules state that if observers leave the area during a recount, they may not reenter without the consent of the election official. If you have occasion to leave the area, you may be denied readmittance.
5. Please do not use the information you see when observing vote counts to report on partial election results. Please do not report anything that could be used to identify the person who casts a particular ballot.

The Colorado State Association of County Clerks and Recorders, Colorado Broadcasters' Association and Colorado Press Association are all committed to working together to ensure the media has access to election counts and recounts, but that access is afforded in manners that do not disrupt the counts and do nothing to compromise the integrity of the process. Your cooperation in following these standards will help us to meet all these goals.

- 8.13 Watchers at Vote Centers. To assist Watchers in performing their tasks when a vote center election is held, the designated election official shall provide a list of all voters who have appeared in the vote centers to vote. This list shall be made available at the designated election official's main office. Such list may be made available to a requesting Watcher(s) in the form of data files, paper or reports, and furnished to all interested parties via email, paper reports, or faxed copies as may be available to the designated election official.

## **Rule 9. Rules Concerning Assistance to Disabled Voters**

- 9.1 A sign providing substantially as follows shall be posted at the polling place/vote center:

### **NOTICE**

#### **VOTING ASSISTANCE FOR ELECTORS WITH DISABILITIES**

Colorado law provides that a voter has a legal right to assistance in voting if assistance is needed because of blindness or other physical disability or inability to read or write. The following procedures apply:

1. The voter must inform one of the election judges that he or she needs assistance.
2. The voter may be assisted by any election judge or by any eligible elector selected by the voter.
3. The person selected must complete a 'voter assistance/disabled voter self-affirmation form' if all of the following apply:
  - The person selected is not an election judge; and
  - The person selected is not the spouse, parent, grandparent, sibling or child eighteen years of age or older, of the voter requesting assistance; and
  - The person selected has assisted any other voter at the same election in the same precinct. 1-7-111(1)(b) C.R.S.
  - The self-affirmation form states, 'I, ....., certify that I am the individual chosen by the disabled elector to assist the disabled elector in casting a ballot.'
4. The person selected may provide any assistance needed by the voter, including entering the voting booth and preparing the ballot or operating the voting

- machine.
5. The person providing assistance shall not seek to persuade or induce the voter to vote in a particular manner.
  6. The election judges shall record the name of each eligible elector assisted and the name of each person assisting by making an entry in the pollbook or list of eligible electors (or by making an entry on the signature card when preprinted signature cards are used in the place of a pollbook and list of eligible electors).
- 9.2 When a voter has spoiled two ballots and requests a third ballot, an election judge shall offer assistance in voting procedures and casting the ballot.

**Rule 10. Rules Concerning Ballots and Election Supplies**

- 10.1 The text of all ballot issues that are subject to Article X, Section 20 shall be printed in all capital letters. The names of all candidates and all other ballot issues and questions shall be printed in upper and lower case.
- 10.2 If a ballot has been printed in error, the designated election official shall consult, as soon as the error is discovered, with the Secretary of State and follow the direction of the Secretary of State on the appropriate method of correction.
- 10.3 If there is no candidate on the ballot for any particular office, the ballot shall read, "No candidate for this office."
- 10.4 On or after January 1, 2006, political organizations or individuals whose candidate(s) names are listed on a ballot must provide an audio recording of the pronunciation of the name to the Secretary of State at least sixty (60) days prior to the election for offices that are voted on by the electors of the entire state, or of a congressional district, or for the offices of members of the general assembly or district attorney or a district office of state concern.

**Rule 11. Rules Concerning Voting Systems**

- 11.1 Definitions
  - 11.1.1 "Central Count" shall mean a ballot counting process whereby cumulative voting totals are tabulated for multiple precincts and multiple ballot styles.
  - 11.1.2 "Election Setup Records" shall mean the electronic records generated by election tabulation software during election setup to create and define ballots, tabulation instructions, and other functions related to the election.
  - 11.1.3 "Electronic Ballot" shall mean a ballot that is presented to the voter in a non-paper form such as on a touch screen or through audio feedback. After a voter casts an electronic ballot, the voter's choices may be:
    - Marked and printed on a paper ballot for subsequent counting by a paper ballot scanning device; or
    - Digitally recorded and counted by the touch screen device, commonly referred to as a Direct Record Electronic (DRE) device.
  - 11.1.4 "Election Software" shall mean the software to be installed or residing on election equipment firmware or on election management computers that controls election setup, vote recording, vote tabulation and reporting.
  - 11.1.5 "Electronic Voting Device" shall mean a device by which votes are recorded electronically, including a touch screen system.
  - 11.1.6 "Electronic Vote-Tabulating Equipment" or "Electronic Vote-Counting Equipment" shall mean any apparatus that examines and records votes automatically and tabulates the result, including but not limited to optical

scanning equipment. The term includes any apparatus that counts votes electronically and tabulates the results simultaneously on a paper tape within the apparatus, that uses an electronic device to store the tabulation results, and that has the capability to transmit the votes into a central processing unit for purposes of a printout and an official count.

- 11.1.7 "Electromechanical Voting System" shall mean a system in which an elector votes using a device for marking a paper ballot using ink or another visible substance and the votes are counted with electronic vote-tabulating equipment, or a system in which votes are directly recorded electronically within the equipment on paper tape and are recorded simultaneously on an electronic device that permits tabulation at a counting center.
- 11.1.8 "Firmware" shall mean computer programs, stored on read-only memory devices or other electronic circuitry in voting devices, that control the basic operations and functioning of those devices.
- 11.1.9 "Logic and Accuracy Test (LAT)" shall mean a step by step documented review of a voting device's ability, prior to use in any election, to produce accurate results on voter choices for the candidates and ballot issues in an election. The Logic and Accuracy test shall fulfill the requirements identified as Public Test as identified in 1-7-509(2) C.R.S.
- 11.1.10 "Precinct Count" shall mean a ballot counting process whereby voting totals are tabulated for single/multiple precincts and multiple ballot styles at individual polling place locations.
- 11.1.11 "Secure" as defined in 1-7-505 C.R.S. shall mean any methods of preventing the use of the voting equipment prior to and after all legal votes are cast.
- 11.1.12 "Vote Center Count" shall mean a ballot counting process whereby cumulative voting totals are tabulated for multiple precincts and multiple ballot styles at multiple locations.
- 11.1.13 "Voting System" shall mean a system that facilitates the process of casting, recording, and tabulating votes using electromechanical or electronic devices or ballot cards and includes, but is not limited to, the procedures for casting and processing votes and the operating manuals, hardware, firmware, printouts, and software necessary to operate the voting system.
- 11.1.14 "Voting System Provider" shall mean an individual engaged in private enterprise or a business entity engaged in selling, leasing, marketing, designing, building, or modifying voting systems to the state, a political subdivision of the state, or another entity authorized to hold an election under Title 1 of the Colorado Revised Statutes.
- 11.1.15 "Zero Tape" shall mean a printout of the internal data registers in electronic vote-tabulating equipment indicating that those registers contain values of "zero (0)" and reflect no voter choices for any candidate or ballot issue.
- 11.2 Voting System Access
  - 11.2.1 The county clerk and recorder shall not program or operate the voting system subject to 1-5-607 C.R.S.
  - 11.2.2 Any election setup materials shall be stored by the county clerk and recorder under security with access limited to the person or persons so authorized in writing by the county clerk and recorder.

- 11.2.3 Employees of the county clerk and recorder who are authorized by the county clerk and recorder to prepare or maintain the voting system or election setup materials shall be deputized by the county clerk and recorder for this specific purpose and so sworn prior to the first election of the calendar year in which they will be performing one or more of these activities.
- 11.2.4 The county clerk and recorder shall request an Internet Criminal History Check (ICHC) from the Colorado Bureau of Investigation (CBI) for all full-time, part-time, permanent and contract employees of the county who staff the counting center and who have any access to electromechanical voting systems or electronic vote tabulating equipment. At the direction of the county clerk and recorder, an ICHC check may be conducted on election judges. The county clerk and recorder shall request the ICHC once per calendar year for such employees prior to the first election of the year.
- 11.2.5 If the ICHC indicates that the employee or contract employee has been found guilty of a crime involving breach of trust, fraudulent, coercive, or dishonest practices or demonstrating incompetence, untrustworthiness, or election offenses pursuant to 1-13-101 *et seq.* C.R.S., the county clerk and recorder shall prohibit such employee or contract employee from preparing, programming, operating, using or having any access whatsoever to electromechanical voting systems or electronic vote tabulating equipment at any time during that person's employment.
- 11.2.6 Vendors shall provide a criminal history check to the county clerk and recorder for any employee of the vendor who has any access to electromechanical voting systems or electronic vote tabulating equipment. The vendor shall provide the criminal history check to the county clerk and recorder once per calendar year for such employees prior to the first election of the year.
- 11.3 Performance Bond
  - 11.3.1 Effective upon the date of the adoption of this rule, a Voting System Provider that provides voting systems or a service provider that provides election setup or tabulation services to one or more counties shall:
    - (a) Provide the services by written contract, a copy of which shall be kept on file with the county clerk and recorder and the Secretary of State;
    - (b) Post a Performance Bond, executed by a corporate surety licensed to transact business in the State of Colorado. The county under contractual obligation with the Voting System Provider or service provider that provides election setup or tabulation services shall be designated as the Beneficiary of the bond; and
    - (c) Provide proof that a performance bond has been posted with the Secretary of State and the office of the designated election official. The amount of the bond shall be the greater of either \$10,000 or the full amount of the contract with the beneficiary county,
  - 11.3.2 The Voting System Provider shall update all bond documents for each contract or election performed.
- 11.4 Voting System Inventory
  - 11.4.1 The designated election official shall maintain an inventory record for each electronic vote-tabulating device used in an election. Such records shall include

but not be limited to the manufacturer, make, model, serial number, hardware/firmware/software version or release number, date of acquisition, description of any services, repairs, maintenance, upkeep, and version upgrades, and the dates of performance of such services as of the date of adoption of these rules.

11.4.2 The designated election official shall furnish the Secretary of State with an extract or copy of the inventory for use in the Logic and Accuracy Test and the Post-Election Audit Test. The requirements for this extract are:

- (a) Be in either electronic or paper format;
- (b) Contain information regarding: make, model, serial number, type (optical scanner or DRE), specific location of use, and specific precincts programmed on each device or card;
- (c) Inventories maintained in electronic format shall be exportable to an industry standard file type – comma separated (CSV), excel spreadsheet (XLS), or Quote or Tab separated (TXT) file prior to electronic delivery to the Secretary of State; and
- (d) The designated election official shall send the inventory list to the Secretary of State's office not less than ten (10) days prior to an election to the attention of the Voting Systems Specialist. Inventory lists may be sent in one of three means: E-mail: [voting.systems@sos.state.co.us](mailto:voting.systems@sos.state.co.us) Subject line = County Number, County Name, HARDWARE INVENTORY LIST; or Via facsimile to: 303-869-4861 attn: Secretary of State, Voting Systems Specialist; or via First Class Mail to Colorado Department of State/ Attn: Voting Systems Specialist/1700 Broadway – Suite 270/Denver, CO 80290.

## 11.5 Voting System Testing

11.5.1 Three types of voting system testing shall be performed for each election within a jurisdiction. The three tests are:

- A Hardware Diagnostic Test;
- A Logic and Accuracy Test (LAT); and,
- A Post-Election Audit Test.

### 11.5.2 Hardware Diagnostic Test

The county clerk and recorder shall commence the Hardware Diagnostic Test prior to the election and allow time for each electronic voting device within the county to be tested. Each device shall be tested to verify that mechanical components are working correctly. This test shall include, but not be limited to, the following tests:

- (a) All input and output devices;
- (b) Communications ports;
- (c) System printers;
- (d) System modems when applicable;
- (e) System screen displays;
- (f) Boot performance and initializations;
- (g) Firmware loads;
- (h) Software loads;
- (i) Confirmation that screen displays are functioning; and
- (j) Date, time and calibration of systems.

### 11.5.3 Logic and Accuracy Test

The designated election official shall conduct a Logic and Accuracy Test according to the following requirements.

- 11.5.3.1 The designated election official shall create a Testing Board consisting of at least two persons, one from each major political party.
- 11.5.3.2 Prior to the commencement of voting, the designated election official shall conduct the public Logic and Accuracy Test.
- 11.5.3.3 The Logic and Accuracy test shall be open to representatives of the press and the public to the extent allowable and 1-7-509(2)(b) C.R.S. The designated election official may limit the number of representatives from each group to accommodate for space limitations and other considerations.
- 11.5.3.4 Testing Board Test Ballots – In preparation for the Logic and Accuracy Test, the designated election official shall provide to each member of the Testing Board , at least twenty-five (25) ballots that are clearly marked as test ballots to be used for the Logic and Accuracy Test.
- 11.5.3.5 The members of the Testing Board shall secretly vote their position and retain a record of the tally of their test votes. The test ballots shall have a known predetermined outcome by the members of the Testing Board's secret vote and tally. Of the twenty-five test ballots, two shall be tested as audio ballots where applicable.
- 11.5.3.6 County Test Ballots – In preparation for the Logic and Accuracy Test, the designated election official shall prepare a sufficient number of test ballots that represent every ballot style, every precinct, allow for a sufficient number of ballots to mark every vote position for every candidate on every race, allow for situations where a race may permit an elector to vote for two or more positions, and include overvotes and undervotes for each race.
- 11.5.3.7 The test ballots shall be tested on each type of voting device utilized in a given election and each method of counting. The tests shall include testing of absentee counting methods, election day counting methods, provisional ballot counting methods, early voting counting methods and audio ballots, if applicable.
- 11.5.3.8 Conducting the Test
  - 11.5.3.8.1 The designated election official and Testing Board shall observe the tabulation of all test ballots by means of the voting device and compare the tabulation with the previously retained records of the test vote count. The cause of any discrepancies shall be corrected prior to the start of vote tabulation.
  - 11.5.3.8.2 Prior to the start of testing, all devices used will have the public counter reset to zero, and presented to the testing board for verification.
  - 11.5.3.8.3 An appropriate number of voting devices will be available and the testing board may witness the necessary programming and/or downloading of memory devices necessary to test the specific precincts.



11.5.3.8.4 The Testing Board, designated election official or his or her designated deputized clerks as necessary shall count the test ballots as follows:

(a) Absentee Ballots:

- (1) All county test ballots shall be counted on at least one, but not more than three, absentee vote counting devices and have the predetermined total verified to the machine total.
- (2) All Testing Board Member test ballots shall be counted individually with reports generated to verify the machine count to the predetermined hand tally.

(b) Precinct Ballots (Optical Scan and DRE):

- (1) The Testing Board shall randomly select 20% but not more than 10 ballots representing unique precincts from the Testing Board's test ballots.
- (2) In the event a selected precinct contains a combination of DRE and Optical Scan voting devices, the Testing Board shall decide on the percentage of ballots to be counted on each type of device used for that precinct.
- (3) The precinct specific county test ballots will be added to the testing board test ballots to be counted on the specific precinct device. The testing board shall manually verify the ballots to be counted prior to any machine count.
- (4) The Testing Board shall verify the manual count to the voting device count.

(c) Early Voting and Provisional Ballots Counted on Optical Scan Devices:

- (1) All test ballots shall be counted on at least one, but not more than five, optical scan devices and have the predetermined total verified to the machine total.
- (2) All test ballots shall be counted individually with reports generated to verify the machine count to the predetermined tally of the test ballots.

(d) Early Voting and Provisional Ballots Counted on DREs:

- (1) All test ballots shall be counted on at least one, but not more than five, optical scan devices and have the predetermined total verified to the machine total.
- (2) All Testing Board Member test ballots shall be counted individually with reports generated to verify the machine count to the predetermined tally of the Testing Board test ballots.

(e) Audio Ballots Counted on DREs:

(1) Two of the testing board ballots shall be identified as Audio Ballots to be tested as such and included with the count.

(f) All test materials, when not in use, shall be kept in a metal box with individual seals for each member of the Testing Board. The designated election official may affix his or her own seal in addition to those of the Testing Board. The designated election official shall be the custodian of the box or boxes but shall not open and/or use the test materials outside of the presence of the Testing Board.

(g) The Testing Board and the designated election official shall sign a written statement attesting to the qualification of each device that was successfully tested, the number of the seal attached to the voting device at the end of the test, any problems discovered, and provide any other documentation as necessary to provide a full and accurate account of the condition of a given device.

(h) Upon completion of the testing, the Testing Board shall witness the resetting and sealing of each tested voting device.

#### 11.5.4 Post-Election Audit

11.5.4.1 Within twenty-four (24) hours of the close of polls on election night, the Secretary of State shall notify the designated election official which voting devices and which race or races on the ballots have been selected for auditing purposes based on the submitted hardware inventory list referred to in Rule 11.4.2.

11.5.4.2 The selection of equipment will be based on a random selection of one (1) percent of precinct scanner based voting equipment, at least one Central Count Scanner/vote center, and one (1) percent of Direct Record Electronic (DRE) voting devices.

11.5.4.3 For optical scanners used for any function of counting ballots except for Central Count/vote center as defined herein, the designated election official shall manually verify all of the ballots that were counted on the randomly selected device(s) with the election summary report that was generated from the device(s) at the close of the polls. The Secretary of State shall randomly select two races to be manually verified.

11.5.4.4 For Optical Scanners used for the purpose of counting ballots in a Central Count/vote center environment as defined herein, the designated election official shall randomly select one (1) percent but not more than one hundred (100) ballots of all the ballots counted on the specific audited device. If the amount of ballots is less than one hundred (100) on the audited device, then all of the ballots will be manually verified. The public counter for that voting device shall be reset to zero, and the ballots shall be recounted on the voting device. A new report will be generated

- from the electronic count of the ballots and shall be manually verified. The ballots and a copy of the report shall be sealed in a separate container and secured with the remainder of the official election records for the election. The Secretary of State shall randomly select two races to be manually verified.
- 11.5.4.5 For Direct Record Electronic Devices (DRE) that do not meet the requirements of 1-5-802 C.R.S. used for any function of counting ballots in an election, the designated election official will manually verify the image of all the ballots contained in the Ballot Log or Ballot Audit that were counted on the specific device with the report generated for that specific device at the close of polls which contains the election summary report. The Secretary of State shall randomly select two races to be manually verified.
- 11.5.4.6 For Direct Record Electronic Devices (DRE) that do meet the requirements of 1-5-802 C.R.S. used for any function of counting ballots in an election, at the close of the polls, the designated election official will manually verify all of the voter verified paper records produced with the report generated for that specific device, which contains the election summary report. The Secretary of State shall randomly select two races to be manually verified.
- 11.5.4.7 The actions of the random audit as identified in this section are to be observed by at least two members of the canvass board. The designated election official may appoint additional deputized clerks to assist in the functions of the audit.
- 11.5.4.8 If there are discrepancies in the audit, the canvass board or the designated election official's deputized clerks shall:
- 11.5.4.8.1 First, manually verify the results as many times as necessary to confirm that there is no discrepancy in the manual count;
- 11.5.4.8.2 Second, take any additional steps as necessary to check for voter error, which shall include but not be limited to: over-votes, stray marks on the ballot, or other voter intent indicia; and
- 11.5.4.8.3 Third, review the situation and take action as necessary in accordance with the canvass board's powers as set forth in 1-10-101 C.R.S.
- 11.5.4.9 At all times relevant to the Post-Election Audit, the designated election official or its deputized clerks or the canvass board shall take every precaution necessary to protect the confidentiality of the ballots cast by the electors.
- 11.5.4.10 Upon completion of the audit, the designated election official shall promptly report the results of the audit to the Secretary of State's Office. The report shall be submitted following the completion of the audit and up to and including 5:00 pm on the

last day of the canvass. The report shall contain:

- (a) The make, model and serial number of the voting device that was audited;
- (b) The number of ballots originally counted by the device or the number of ballots audited as identified in paragraph (d) of this section;
- (c) The count of the specific race or races as provided on the summary report printed at the close of polls or the report generated for the audit;
- (d) The count of the specific race as manually verified; and
- (e) The signature of the canvass board and the designated election official.

11.5.4.11 The report may be sent by any of the following three methods:

E-mail: [voting.systems@sos.state.co.us](mailto:voting.systems@sos.state.co.us); Subject line = County Number, County Name, POST-ELECTION AUDIT; or via facsimile to: 303-869-4861 attn: Secretary of State, Voting Systems Specialist; or via First Class Mail to Colorado Department of State/ Attn: Voting Systems Specialist/1700 Broadway – Suite 270/Denver, CO 80290.

- 11.6 A set of schematics and drawings on electronic vote casting and counting equipment purchased or in use by the county clerk and recorder shall be on file with the Secretary of State.
- 11.7 Escrow of County Election Setup
  - 11.7.1 No later than 5:00pm on the seventh (7th) day prior to any election, the designated election official shall deposit a copy of the election setup records to the Secretary of State's office by mail.
  - 11.7.2 Jurisdictions that have contracted with either a Software Service Bureau or a Vendor of Electronic Vote Counting Equipment may choose to have the necessary election setup records delivered to the Secretary of State's office within the specified time frame.
  - 11.7.3 Election Setup Records shall be contained within an electronic media format that is native to the jurisdictions specific ballot creation and tabulation system. Acceptable media formats range from Tape, Diskette, Cartridge, CD-ROM, DVD-ROM, Floppy, External Hard Drive, or Flash Media.
  - 11.7.4 All copies of electronic media shall be sent to:
    - Colorado Secretary of State
    - Attn: Voting Systems Specialist
    - 1700 Broadway – Suite 270
    - Denver, CO 80290
  - 11.7.5 Jurisdictions will include a point of contact and method of contact (phone, fax, e-mail, etc.) to inform the jurisdiction that the Secretary of State's office has received the election setup records.
  - 11.7.6 Within 24 hours of receipt of the election setup files, the Secretary of State or his or her designee will contact the jurisdiction to confirm receipt of the escrow files.
  - 11.7.7 The Secretary of State's office will store the setup files in a secured, fire proof, limited access location or container.

- 11.7.8 All parties shall treat as confidential all escrowed materials and any other related information that comes into their possession, control or custody pursuant to this rule.
- 11.8 Escrow of Voting System Software by Voting System Provider
- 11.8.1 Voting System Providers must place in escrow a copy of the election software and supporting documentation being certified with either the Secretary of State or an independent escrow agent approved by the Secretary of State. *See 1-7-511 C.R.S.*
- 11.8.2 Within ten days of the Voting System provider receiving notification of examination of voting equipment as part of the certification process, the Voting System Provider shall arrange for the completion of escrow requirements as indicated by this rule.
- 11.8.3 Voting System Provider shall sign a sworn affidavit that the election software in escrow is the same as the election software used in its voting systems in this state. An annual update of the affidavit will be on file in a secured location with the Secretary of State's office.
- 11.8.4 A complete copy of the certified election software including any and all subsystems of the certified software shall be maintained in escrow.
- 11.8.5 Any changes to current configurations or new installations must be approved through the certification program of the Secretary of State.
- 11.8.6 In addition to the requirements listed below, the Voting System Provider must include a cover/instructions sheet for any escrow material to include the Voting System Provider Name, Address and pertinent contact information, Software Version, Hardware Version, Firmware Revision Number and other uniquely identifying numbers of the software submitted for certification.
- 11.8.7 Election Software Source Code, maintained in escrow, shall contain internal documentation such that a person reasonably proficient in the use of the programming language can efficiently use the documentation to understand the program structure, control techniques, and error processing logic in order to maintain the Source Code should it be removed from escrow for any reason.
- 11.8.8 System documentation shall include instructions for converting the escrowed Source Code into Object Code, organized and configured to produce an executable system, if warranted.
- 11.8.9 System documentation shall include technical architecture design, analysis, detail design, testing and an installation and configuration guide.
- 11.8.10 All parties shall treat as confidential the terms of this Section including all escrow materials and any other related information that comes into their possession, control or custody pursuant to this section.
- 11.8.11 Copies of Electronic media and supporting documentation for Escrow within the Secretary of State shall be sent to:  
Colorado Secretary of State  
Attn: Voting Systems Specialist  
1700 Broadway – Suite 270  
Denver, CO 80290
- 11.8.12 Any cost of using an alternative third party escrow agent shall be borne by the Voting System provider.

## **Rule 12. Rules Concerning Mail Ballot Elections**

12.1 Definitions.

12.1.1 A secrecy sleeve or secrecy envelope shall be sealed or closed on at least two sides, one of which shall be the bottom of the sleeve.

12.1.1.1 The secrecy sleeve or secrecy envelope shall be uniform within each type of absentee or mail ballot voting system used in the State of Colorado. Each secrecy sleeve or secrecy envelope used in the State of Colorado in any mail ballot or absentee ballot election shall contain the following required language, approved by the Secretary of State, regarding identification requirements of voters who have registered by mail:

- (a) “First Time Voters Who Register By Mail  
If you registered in your county by mail, and did not provide identification with your registration application, a copy of one of the forms of identification listed in Rule 2.3(a) is required with your mail ballot or your absentee ballot.
- (b) “If you did not submit proof of identification with your mail-in registration form, you will be required to provide proof of identification using the types of identification described above with your voted mail or absentee ballot.”
- (c) “Failure to provide ID will result in your ballot being treated as a provisional ballot. Provisional ballots are counted when registration is verified.” *See* 1-7.5-107(3.5)(d) C.R.S.

12.1.2 A separate mail ballot plan is not required from a political subdivision if a county clerk and recorder submits a mail ballot plan for a coordinated election which includes the political subdivision.

12.2 Election Judges.

12.2.1 The designated election official for the election may appoint an appropriate number of judges to receive the ballots after they are mailed, to handle “walk-in” balloting and absentee ballots at the sites designated for “walk-in” balloting, to check registrations, to inspect, verify, and duplicate ballots when necessary, and to count the ballots and certify results.

12.3 Notice of elections.

12.3.1 Call and notice.

- (a) Notice of the election is to be sent to the clerk and recorder of the county in which the election is to be held. The notice is to include the date by which the list of registered electors is to be submitted to the political subdivision.
- (b) For multi-county political subdivisions, the notice sent to each clerk and recorder shall also include the names of all other counties in which the election will be held.

12.3.2 As soon as possible, but no later than 55 days prior to an election, a written plan must be submitted to the Secretary of State which includes the following:

- a. Date of the election;
- b. Type and name of jurisdiction involved in the election;
- c. Description of the type of election to be conducted;
- d. Citation of the statute or home rule charter provisions authorizing the election;

- e. Estimated number of eligible electors;
- f. Name of the designated election official who will be responsible for all aspects of the election;
- g. Indication of whether the county clerk and recorder will assist in the election for the entity other than by providing a list of registered electors and other information required by statute;
- h. Total number of “places of deposit”. For security reasons, unmonitored freestanding places of deposit located outside will not be allowed.
- i. Written timetable for the conduct of the election in accordance with the statute.
- j. Indication of how postage will be handled for ballot packets returned as undeliverable (e.g. “return postage guaranteed”);
- k. Indication of procedures to be followed to ensure compliance with statutes and rules, including persons responsible for each stage;
- l. Description of procedures to be used to ensure ballot security at all stages of the process;
- m. Description of procedures to be used for signature verification;
- n. Description of procedures to ensure privacy by use of a secrecy sleeve or secrecy envelope so receiving judges cannot tell how the elector voted.
- o. Description of procedures to be used to reconcile ballots issued, ballots received, defective ballots and substitute ballots.
- p. An actual sample of the secrecy sleeve or secrecy envelope to be used in the mail ballot election.

#### 12.3.3 Written timetable specifications:

- (a) The designated election official shall prepare a written timetable for conducting the mail ballot election with specific dates or range of dates when each activity is to be completed.;
- (b) The timetable shall include the following dates:
  - 1. Copy of written plan to governing body;
  - 2. Date of approval of election by governing body;
  - 3. Date of submission of written plan to Secretary of State’s office;
  - 4. Anticipated date of approval by Secretary of State;
  - 5. Date of publication of notice of election;
  - 6. Date of notice of election to the county clerk;
  - 7. Date of notice of election to the county assessor, if property owners are eligible to vote in the election;
  - 8. Date of close of registration;
  - 9. Date by which the county clerk and recorder must submit the list of eligible electors to the political subdivision and, if property owners are eligible to vote in the election, the date by which the county assessor must submit the list of property owners;
  - 10. Date ballots will be mailed;
  - 11. Date verification and counting of ballots will begin;
  - 12. Date of the election.

#### 12.4 Ballots.

##### 12.4.1 For elections where multiple ballots will be included in the same packet or will be

sent in separate packets, the ballots and return envelopes shall include distinctive markings or colors to identify political subdivisions when the colors or distinctive markings will aid in the distribution and tabulation of the ballots.

- 12.4.2 The designated election official for each political subdivision for whom one or more county clerk and recorders are conducting the election shall assure that a complete list of eligible electors in their political subdivision is sent to each appropriate county clerk and recorder, unless otherwise provided in the intergovernmental agreement. The political subdivision shall list each elector only once to assure that each elector receives one and only one ballot unless otherwise authorized.
  - 12.4.3 For coordinated mail ballot elections, each county clerk and recorder may compare the lists submitted by the various political subdivisions to assure that each elector receives the appropriate ballot or ballots for the election.
  - 12.4.4 For all coordinated elections where more than one mail ballot is being mailed or polling place elections are being held as well as the mail ballot election, the outgoing envelope as well as the instructions or other notice shall have the following notice: "This may not be your only ballot. Other elections may be held by other political subdivisions by mail or by polling place."
  - 12.4.5 If the ballot is returned to the election official as undeliverable, the official shall not be required to re-mail the ballot packet.
  - 12.4.6 The designated election official shall require that the eligible elector submit a copy of his or her identification as defined in Section 1-1-104(19.5), C.R.S., with the elector's ballot in the return envelope if the eligible elector registered to vote by mail pursuant to Part 5, Article 2, Title 1, C.R.S. and did not provide the required ID upon registration.
  - 12.4.7 The county clerk and recorder shall indicate on the list of registered voters requested by the designated election official those registered voters required to be identified in Rule 12.4.6, unless such registered voter either:
    - (a) Submitted as part of the registration by mail a copy of the elector's identification as defined in Section 1-1-104(19.5), C.R.S.; or
    - (b) Votes pursuant to Section 1-7-111(2), C.R.S.; or
    - (c) Is otherwise entitled to vote under any federal law.
  - 12.4.8 If the elector is required to provide his or her identification, the outside of the return envelope shall be marked to identify such envelope.
  - 12.4.9 If the marked return envelope does not contain proper identification, the ballot shall be treated as a provisional ballot. The outside of the return envelope shall be marked "provisional". For non-partisan elections, the provisional ballot shall be verified and counted in accordance with Rule 26.
- 12.5 Absentee and Early voting.
- 12.5.1 Absentee voting occurs in a mail ballot election when a registered, eligible elector requests that the ballot be mailed to a place other than the address of record.
  - 12.5.2 An "in person" request for an absentee ballot that is delivered to the elector in the clerk and recorder's office may be filed any time after January 1 of the year of the election, but no later than the close of business on the Friday prior to the election; except that, if the applicant wishes to receive the absentee ballot by mail, the



- application shall be filed no later than the close of business on the eleventh day before the election.
- 12.5.3 Upon receipt of a request for an absentee ballot, the designated election official shall mail the original ballot or a replacement ballot to that elector.
  - 12.5.4 A record shall be made on the registration rolls that a request for an absentee ballot was received, a ballot was mailed to the alternate address and the ballot number shall be recorded.
  - 12.5.5 For mail ballot elections, the notation “Absentee Ballot No. A.V.\_\_\_\_” shall not be required on the absentee ballots.
  - 12.5.6 Establishment of polling place for early voting shall not be required for a mail ballot election, however the location for walk-in balloting shall be maintained.
- 12.6 Receipt of Ballots
- 12.6.1 One or more judges shall be appointed for the site to which ballots are to be mailed to receive the ballots as mailed.
  - 12.6.2 Each day when ballots come in, a judge shall count the ballots, batch them and record the number of ballots received.
  - 12.6.3 The ballots shall be date-stamped when received. If any ballot is received after the time set for the closing of the elections, the ballot shall be date-stamped but the ballot shall not be counted.
  - 12.6.4 Records shall also be kept of the number of ballot packets returned as undeliverable.
  - 12.6.5 Ballot packets shall then be placed in a safe, secure place until the counting of the ballots.
- 12.7 If a voter has been directed to return a document with his/her voted ballot, the election judge shall open the returned envelope to retrieve the required form. If the required form cannot be found in the return envelope, the election judge shall open the secrecy envelope/sleeve to find the required form or document in an effort not to disenfranchise the voter.
- 12.8 For any non-matching or missing signature on a mail ballot return envelope, Rule 29 concerning procedures for the verification of signatures shall be followed.
- 12.9 Ballots Delivered in Person.
- 12.9.1 If political subdivision desires to establish a site for walk-in voting outside of the county, municipality or district, permission must be obtained from the Secretary of State.
  - 12.9.2 Any eligible elector may deliver in person to the designated or coordinated election official’s office no more than 5 voted mail ballots from members of his or her household.
- 12.10 Replacement Ballots for Purpose of Mail Ballot Elections.
- 12.10.1 Requests for replacement ballots may be made in writing, by mail, by fax, or by telephone.
  - 12.10.2 An elector requesting a replacement ballot shall complete a sworn statement, as required by section 1-7.5-107(3) (d) (I) C.R.S., on a form provided by the designated election official.
  - 12.10.3 The affidavit shall include space in which the elector shall specify the reason for requesting a replacement ballot. The affidavit shall also contain a statement in bold that the original ballot may not be cast and that, if both the original and the

replacement ballot are cast, neither ballot will be counted. If the elector requested that the replacement ballot be mailed, the affidavit may be included in the ballot packet mailed to the eligible elector, and must be received on or before election day by the election official.

- 12.10.4 The election judge issuing a replacement ballot shall indicate on the outside of the return-verification envelope whether a sworn statement must be returned with the voted ballot. No replacement ballot shall be counted until it has been determined that an affidavit has been completed by the voter and has been received on or before election day by the election official.

#### 12.11 Verification of Replacement Ballots

- 12.11.1 Upon issuance of a replacement ballot, the first voted ballot returned by the elector shall be considered the elector's official ballot, pursuant to 1-8-111(3) C.R.S.
- 12.11.2 If a return verification envelope is submitted which contains a replacement ballot it shall be set aside until 7:00 p.m. on election day. If it can be determined that the replacement ballot is the only ballot issued to the elector or that all prior ballots issued to the elector have been voided, it may be processed in the same manner as the original ballot.
- 12.11.3 The information on the return verification envelope may be checked prior to 7:00 p.m. on election day, but the ballot may not be removed until the polls close.
- 12.11.4 When all voted ballots have been received and the polls closed, the replacement ballots shall be checked to ensure that the elector only voted with the replacement ballot. If it appears that the elector only voted the replacement ballot and if all the information is complete on the return verification envelope, the ballot may be removed and counted as the other ballots.

#### 12.12 Judges Duties.

- 12.12.1 The judges shall record the results of the election on the judges' certificate and statement.
- 12.12.2 The judges shall deliver the results of the election to the designated election official along with all election materials.
- 12.12.3 The judges shall deliver all election materials bound separately as follows:
  - (a) Ballots which were counted;
  - (b) Ballots which were defective, as defined in 1-7-309(4);
  - (c) Ballots/verification envelopes which may be challenged;
  - (d) Verification envelopes with ballots removed;
  - (e) Defective verification envelopes with ballots inside;
  - (f) Ballot packets which were returned as undeliverable.

#### 12.13 Canvass of votes/certificates of election.

- 12.13.1 Elections can be challenged as provided in the enabling statute of the entity calling the election.
- 12.13.2 A failure of an elector to receive a ballot will not by itself be sufficient grounds for the challenge of an election, so long as the designated election official acted in substantial compliance with Title 1, Article 7.5, C.R.S. or the rules promulgated thereunder by the Secretary of State.

### **Rule 13. Rules Concerning Absentee Voting**

- 13.1 All election materials prepared by the designated election official, including the Article

- X, Section 20 notice, may be included in the absentee ballot mailing.
- 13.2 The county clerk and recorder shall keep a list, to the extent possible, of the names and mailing addresses of all individuals who deliver more than five voted absentee ballots to the designated or coordinated election official's office or the designated drop site for absentee ballots.
  - 13.3 The county clerk and recorder shall notify each individual on the list required by 13.2 by letter that they have violated 1-8-113 C.R.S. by delivering more than five absentee ballots to the designated election official.
  - 13.4 The designated election official shall require that the eligible elector submit a copy of his or her identification as defined in Section 1-1-104(19.5), C.R.S., with the elector's ballot in the return envelope if the eligible elector registered to vote by mail pursuant to Part 5, Article 2, Title 1, C.R.S. and failed to include the copy with the original registration or failed to supply a driver's license number, Colorado Department of Revenue ID number or at least the last four digits of a social security number that was subsequently verified per Rule 30.5.
  - 13.5 The county clerk and recorder shall indicate on the list of registered voters requested by the designated election official those registered voters required to be identified in Rule 13.4.
  - 13.6 If the elector is required to provide his or her identification, the outside of the return envelope shall be marked to identify such envelope. A county may use additional methods to communicate the requirement to provide identification. The elector shall also be provided with specific instructions on the requirement to provide such identification.
  - 13.7 If the marked return envelope does not contain proper identification, the ballot shall be treated as a provisional ballot. The outside of the return envelope shall be marked "provisional". The provisional ballot shall be verified and counted in accordance with 1-8.5-105(5) C.R.S.
  - 13.8 If a voter has been directed to return a document with his or her voted ballot, the election judge shall open the returned envelope to retrieve the required form. If the required form cannot be found in the return envelope, the election judge shall open the secrecy envelope/sleeve to find the required form or document in an effort to not disenfranchise the voter.
  - 13.9 For any non-matching or missing signatures on an absentee ballot return envelope, Rule 29 concerning procedures for the verification of signatures shall be followed.
  - 13.10 The designated election official's duties under 1-8-112 C.R.S. are triggered if the U.S. mail is delivered collectively to the residential facility. If the U.S. mail is delivered to individuals or individual mailboxes, the requirements of 1-8-112 C.R.S. shall not be applicable.
  - 13.11 Voters who appear in person at their correct polling place, but who requested absentee ballots, will nevertheless be permitted to cast provisional ballots upon their declaration that they have not and will not cast any vote in the election other than by that provisional ballot. The provisional ballot is then to be counted, once election officials determine that the voter did not in fact cast the absentee ballot.

#### **Rule 14. Rules Concerning Recount**

- 14.1 Each designated election official who conducts a recount shall follow the specific procedures outlined by the Secretary of State for the equipment used for the election.
- 14.2 The Secretary of State shall prepare a letter that specifies the procedures to be used for

- the recount which shall be sent to the designated election official upon receipt of the notice of a recount.
- 14.3 The purpose of a recount is to review the ballots to assure they were counted properly. Unless directed otherwise by the Secretary of State, all procedures of election night shall be followed as closely as possible during the recount, including an examination of the ballots.
- 14.4 General Provisions
- 14.4.1 The Secretary of State may have an official observer at every recount location.
- 14.4.2 Any candidate who is subject to the recount may be present and observe the recount at any recount location or designate one Watcher to observe the recount at any recount location. Watchers must provide the election official with a certificate signed by the candidate, except that an officer of the county party may be accepted as a candidate's watcher without a certificate if no other person is designated by the candidate for that location.
- 14.4.3 Each candidate, his or her watcher, members of the media, and official observers as defined in Rule 8.1, may be present in the room when a recount is conducted. During the recount the candidate, watcher, members of the media, and official observers may not interfere with the recount process.
- 14.4.4 The recount board, as defined by the Secretary of State, candidates, watchers, members of the media, and official observers will take an oath.
- 14.4.5 Candidates, watchers, members of the media, and official observers who enter the recount room after the recount begins must stay until the recount is complete. Anyone who must leave the recount room will not be allowed to re-enter the recount room without the specific consent or authorization of the designated election official.
- 14.4.6 All votes for all candidates in any race subject to a recount shall be counted.
- 14.5 Counting of Paper Ballots - Recount
- 14.5.1 Totals of recounted ballots shall be processed, counted, and reported in summary form as follows:
- (a) Sum total of votes cast for each candidate, under-votes, and over-votes for all precincts;
  - (b) Sum total of votes cast for each candidate, under-votes, and over-votes for all absentee ballots (a combined total, not totaled by individual precincts or locations, unless the voting system so allows.);
  - (c) Sum total of votes cast for each candidate, under-votes, and over-votes for all early voting precincts (a combined total, not totaled by individual precinct or locations, unless the voting system so allows.);
  - (d) Determine grand total of ballots cast by early voting, absentee voting, and precinct voting.
- 14.5.2 If absentee ballots were originally counted with early voting ballots, then the recount will be of a combined total of early and absentee ballots.
- 14.5.3 Ballot boxes or containers shall be opened one at a time.
- 14.5.4 Ballots shall be counted into groups of 25 to ensure that the number of ballots recounted matches the number originally counted.
- 14.5.5 Votes shall be counted by individual hash marks in 25-count sections by two different judges.

#### 14.6 Counting of punch-card ballots-Recount

- 14.6.1 Prior to the recount, the canvass board shall choose a precinct at random to be utilized as a test deck for purposes of section 1-10.5-102 C.R.S. The purpose of a test deck is to assure the tabulation machines are counting properly. The precinct chosen shall contain at least 50 ballots. A hand tally shall be conducted of the selected precinct or of a minimum of fifty ballots contained within the selected precinct. The ballots from the selected precinct test deck shall be processed through all tabulation machines that will be utilized for the recount. The totals of the recounted contest obtained from the test precinct shall be compared to the hand-tallied total.
- 14.6.2 If the test deck precinct totals differ from the hand count totals, all ballots containing the recounted contest shall be tallied by hand following procedures for paper ballot recounts. If the test deck precinct totals are exactly the same, the recount tabulation shall be conducted by machines.
- 14.6.3 A clear audit trail shall be maintained throughout the recount including, but not limited to, a log of seal numbers on transfer cases or ballot boxes as defined in section 1-7-505, C.R.S., and the corresponding numbered seal used as a replacement, upon completing the recount of ballots within that transfer case.
- 14.6.4 The number of ballots counted by precinct according to the election night report shall be available during the recount for comparison purposes.
- 14.6.5 Totals of recounted ballots shall be processed, counted, and reported in summary form as follows:
- (a) Sum total of votes cast for each candidate, under-votes, and over-votes for all precincts;
  - (b) Sum total of votes cast for each candidate, under-votes, and over-votes for all absentee ballots (a combined total, not totaled by individual precincts or locations, unless the voting system allows);
  - (c) Sum total of votes cast for each candidate, under-votes, and over-votes for all early voting precincts (a combined total, not totaled by individual precincts or locations, unless the voting system so allows);
  - (d) Determine the grand total of ballots cast in early, absentee, and precinct voting.
- 14.6.6 If absentee ballots were originally counted with early voting ballots, then the recount will be of a combined total of early and absentee ballots.
- 14.6.7 Ballots shall be reviewed for voter intent.
- 14.6.8 Utilizing a cleared reader, all precinct ballots shall be counted within all precincts. Precincts shall be counted in numeric order. After the individual precinct is counted, the ballots shall be returned to the ballot container and sealed.
- 14.6.9 Utilizing a cleared reader, all early voting ballots shall be counted. After an individual ballot container is counted, the ballots shall be returned to the ballot container and sealed.
- 14.6.10 Utilizing a cleared reader, all absentee voting ballots shall be counted. After an individual ballot container is counted, the ballots shall be returned to the ballot container and sealed.

#### 14.7 Counting of Optical Scan Ballots - Recount

- 14.7.1 All optical scan tabulation machines to be used in the recount must be tested prior

to the recount, utilizing the procedures set forth in this section. Prior to the recount, the canvass board shall choose at random and test Voting Devices and precinct(s) to be utilized as a test deck for purposes of section 1-10.5-102. The purpose of a test deck is to assure the tabulation machines are counting properly. The precinct chosen shall contain at least 50 ballots. A hand tally shall be conducted of the selected precinct or of a minimum of fifty ballots contained within the selected precinct. A blank prom cartridge, rom cartridge, or memory card shall be utilized for the test deck. The ballots from the selected precinct test deck shall be processed through all scan tabulation machines that will be utilized for the recount. The totals of the recounted contest obtained from the test precinct shall be compared to the hand-tallied total.

- 14.7.2 If the test deck precinct totals differ from the hand count totals, and the discrepancy cannot be accounted for by voter error, all ballots containing the recounted contest shall be tallied by hand following procedures for paper ballot recounts. If the test deck precinct totals are exactly the same, the recount tabulation shall be conducted by machines.
- 14.7.3 A clear audit trail shall be maintained throughout the recount including, but not limited to, a log of seal numbers on transfer cases or ballot boxes as defined 1-7-505, C.R.S., and the corresponding numbered seal used as a replacement, upon completing the recount of ballots within that transfer case.
- 14.7.4 The number of ballots counted by a precinct according to the election night report shall be available during the recount for comparison purposes.
- 14.7.5 Totals of recounted ballots shall be processed, counted, and reported in summary form as follows:
  - (a) Sum total of votes cast for each candidate, ballot issue or ballot question subject to the recount, under-votes, and over-votes for all precincts;
  - (b) Sum total of votes cast for each candidate, ballot issue or ballot question subject to the recount, under-votes and over-votes for all absentee ballots (a combined total, not totaled by individual precincts or location, unless your system allows);
  - (c) Sum total of votes cast for each candidate, ballot issue or ballot question, subject to the recount, under-votes, and over-votes for all early voting locations (a combined total, not totaled by individual precinct or locations, unless the voting system so allows);
  - (d) Determine the grand total of ballots cast in early, absentee, and precinct voting.
- 14.7.6 If absentee ballots were originally counted with early voting ballots, then the recount will be of a combined total of early and absentee ballots.
- 14.7.7 Ballots shall be reviewed for voter intent.
- 14.7.8 Utilizing one or more blank prom cartridge, rom cartridges, or memory card, all precinct ballots shall be counted within all precincts. After the individual precinct is counted, the ballots shall be returned to the ballot container and sealed.
- 14.7.9 Utilizing one or more blank prom cartridge, rom cartridges, or memory card, all early voting ballots shall be counted. After an individual ballot container is counted, the ballots shall be returned to the ballot container and sealed.
- 14.7.10 Utilizing one or more blank prom cartridges, rom cartridges, or memory card,

all absentee voting ballots shall be counted. After an individual ballot container is counted, the ballots shall be returned to the ballot container and sealed.

14.8 Counting of Ballots Using the “Ballot Now” Voting System

14.8.1 In the case of a recount, the designated election official shall identify all precincts with the contest(s) designated for a recount using the following procedures:

- (a) Using the Ballot Now Scanned Ballots by Precinct report from the original election database, locate the batches containing any ballot type (Election, Absentee, and Provisional) for the recount.
- (b) Remove ballots from each batch and label them as “Recount”.

14.8.2 Required scanner testing shall be performed using a test deck from a randomly chosen precinct with at least 50 ballots as prescribed by statute, following testing procedures outlined in the State of Colorado Procedures for the use of the Ballot Now Voting System. A Recount Test spreadsheet shall be created based on the chosen precinct in the same fashion as the ballot options test spreadsheet.

- (a) If the test deck precinct totals differ from the hand count totals, and the discrepancy cannot be accounted for by voter error, all ballots containing the recounted contest shall be tallied by hand, following procedures for paper ballot recounts. If the test deck precinct totals are exactly the same, the recount tabulation shall be conducted by electronic vote tabulating equipment.

14.8.3 Ballots for the recount shall be processed following the State of Colorado Procedures for the use of the Ballot Now Voting System in conjunction with the following procedures:

- (a) Open Ballot Now with an unused MBB (Mobile Ballot Box) from the election and create a Ballot Now recount database;
- (b) Scan and resolve all recount ballots following original election procedures, including the examination of ballots (Rule 14.3; 1-8-10.5-102 C.R.S.) Use the Audit Trail Report and original Scan Batch Reports with notes to ensure resolution action follows original resolution.
- (c) Save all recount CVRs (Cast Vote Records) to the MBB (Mobile Ballot Box) after verifying that the number of ballots processed matches the number of ballots cast in the recount contest(s).
- (d) Open a new recount election in “Tally” and process the recount MBB following the tabulation procedures above.
- (e) Compare recount results to original results and document any differences.
- (f) Backup the test database and the official recount database following the “Archive” procedures.

**Rule 15. Rules Concerning Preparation and Filing of Statewide Initiative Petitions**

15.1 Each petition section shall have on it a consecutive four-digit number. The number may be printed by a printer, hand-stamped with a manual stamp, or handwritten.

15.2 The lines on the petition section shall be consecutively numbered.

15.2.1 The block of information which consists of the printed last name, first name, middle initial, county, signing date, street address, city and signature is considered a line.

15.3 No petition shall be accepted which lists proponents other than the two identified as petition representatives pursuant to 1-40-104 C.R.S.

- 15.4 Proponents may begin circulating a petition for signatures at any time after the final decision of the title board, including disposition of any motion for rehearing or the expiration of the time for filing a motion for rehearing, and after the Secretary of State has approved the format of the petition as provided in section 1-40-113 (1) C.R.S., whether or not an appeal is filed with the Supreme Court pursuant to section 1-40-107 (2). The six-month period specified in section 1-40-108 (1) shall begin on the date that the first signature is affixed to the petition or, in the case of an appeal to the Supreme Court, on the date that the decision of the Supreme Court becomes final, whichever date occurs first. Signatures shall be counted only if affixed to the petition during the period provided in this rule.
- 15.5 Only one filing of a petition or an addendum is allowed. After a petition or an addendum is filed, the petition or the addendum may not be supplemented with additional signatures. If additional signatures are submitted after the original filing, such signatures shall not be counted, even if such signatures are submitted within the time permitted by law for the filing of the original petition or addendum.

**Rule 16. Rules Concerning Verification by Random Sample of Statewide Initiative Petitions**

- 16.1 Preliminary count and generation of random numbers.
- 16.1.1 When the petitions are received, each section shall be consecutively numbered.
- 16.1.2 Each line with writing shall be counted on each petition and shall be considered an entry. The number of entries for each page of the section shall be written on the page, and the total entries for the section shall be written on the face of the petition section.
- (a) A line which has no writing or marks on it shall not be considered an entry.
- (b) A line which has writing on it but is completely crossed out shall not be considered an entry.
- (c) A line which has writing on it but is incomplete or on its face contains an invalid signature or which is partially crossed out shall be considered an entry to be included in this count.
- 16.1.3 After the entries have been counted for each petition section, a data entry clerk shall enter the following data into the computer; the petition identification number, the petition section number, the page number and the number of entries on the page.
- 16.1.4 The computer shall then create a record for each entry which record shall contain the petition identification number, petition section number, page number and the entry number. The total number of entries submitted for the petition shall be tallied.
- 16.1.5 If the number of entries is less than the total number of signatures required to certify the measure to the ballot, a statement of insufficiency shall be issued.
- 16.1.6 A series of random numbers shall be generated by the computer which is the greater of four thousand signatures or five percent of the total number of entries.
- 16.2 Verification of selected entries.
- 16.2.1 The random numbers selected shall be matched with the appropriate petition section, page number and entry number.
- 16.2.2 Each entry generated shall be checked for validity in accordance with Rules



22.3.3 and 22.3.4:

- (a) Evidence of disassembly of the petition;
  - (b) The circulator's affidavit does not meet the requirements of statute or rule;
  - (c) The individual entry does not meet the requirements of statute or rule.
- 16.2.3 Each reason for rejection of an entry shall be recorded by separate code and a master record of the rejected entries shall be maintained. A master record shall also be maintained of each entry that is accepted.
- 16.3 Each section shall be checked for evidence of disassembly. If it appears that the section was disassembled, the entry shall be rejected.
- 16.4 Checking the circulator's affidavit.
- 16.4.1 The circulator's affidavit shall be checked for each entry. If the affidavit is not attached and completed, the entry shall be rejected.
- 16.4.2 The notary clause at the end of the affidavit shall be checked for each entry. If any information is missing or if the date on the notary clause is not the same date as the circulator signed the affidavit, the entry shall be rejected.
- 16.4.3 The name of each circulator shall be checked to assure that the circulator was a registered elector at the time that the signatures were gathered. If the circulator was not a registered elector, the entry shall be rejected.
- 16.4.4 If the information on the current voter registration file does not match the information on the entry, the circulator's voter registration history shall be checked to determine if the information on the affidavit matches the voter registration file at the time the entry was signed.
- 16.5 Checking individual signatures.
- 16.5.1 Each individual entry shall be checked against the master voter registration files.
- 16.5.2 If the information on the current voter registration file does not match the information on the entry, the elector's voter registration history shall be checked to determine if the information on the entry matches the voter registration file at the time the entry was signed.
- 16.5.3 Name of registered elector: to be accepted, the name on the entry must be found in form similar to that found on the voter registration record. Signatures that are common variants of the name found on the voter record shall be counted. If the signer of the petition is not found on the voter registration file, the entry shall be rejected.
- 16.5.4 Middle initial and additional terms.
- (a) If the middle initial or middle name is not part of either the signature line or the voter record but is included on the other document, if the first and last name are the same on both documents, the entry shall be accepted.
  - (b) If the middle initial or middle name on the signature line is different than the middle initial or middle name on the voter record, the entry shall be rejected.
  - (c) If an indicator such as Jr., Sr. or II is present or omitted from the petition or the voter record, the entry shall be accepted. If two persons with the same name reside at the same address as found on the master voter list, the entry shall be rejected, unless the identity of the signer can be conclusively determined.
- 16.5.5 Address of registered elector.

- (a) If the address written on the line does not match the address on the voter record or on the voter history for the date when the signature was taken, the entry shall be rejected.
  - (b) If the address on the petition either includes or omits a letter or number identifying an apartment or the directional location of a street, such as “E” for east, “SW” for southwest, etc., the entry shall be accepted.
  - (c) If the signer has a post office box for the address, the entry shall be rejected.
- 16.5.6 Incomplete information: if the line on the petition is incomplete, with at least one piece of information omitted, the entry shall be rejected.
- 16.5.7 Date of signing.
  - (a) If a signature is placed on the petition prior to the final approval of the petition format by the designated election official, the entry shall be rejected.
  - (b) If the signature is placed on the petition after the date on the circulator’s affidavit, the entry shall be rejected.
- 16.5.8 Assistance to signer: if assistance appears to have been given to the signer and no statement of assistance accompanies the signature or mark explaining the variance in the script, the entry shall be rejected.
- 16.5.9 Illegible signature: if the signature and printed name are illegible so that the voter record cannot be verified, the entry shall be rejected.
- 16.5.10 Duplicate signature: if the elector had previously signed the same petition, the first valid entry shall be counted and all other entries shall be rejected.
- 16.6 Computation of total accepted signatures.
  - 16.6.1 A tally shall be made of the number of accepted signatures and the number of rejected signatures.
  - 16.6.2 The Secretary of State shall determine the range of signatures by multiplying the constitutionally required number of signatures by 0.90 to compute 90% of the required signatures and by 1.10 to compute 110% of the required signatures. This number shall be calculated once every four years after the general election at which the Secretary of State was elected.
  - 16.6.3 After completing a petition, the number of signatures checked shall then be divided into the number of accepted signatures. This number will be the percentage of accepted signatures which were submitted.
  - 16.6.4 The percentage calculated in Rule 16.6.3 shall then be multiplied by the total number of entries which were previously tallied. This number will be the number of presumed valid signatures which were submitted.
  - 16.6.5 If the number generated is 90% or less of the constitutionally required number of signatures as calculated in Rule 16.6.2, then the Secretary of State shall issue a statement of insufficiency. If the number generated is 110% or more of the constitutionally required number, then the Secretary of State shall issue a statement of sufficiency.
  - 16.6.6 If the number generated is more than 90% but less than 110% of the required number, the Secretary of State shall order that each signature on the petition be verified to determine whether the issue or question should be certified to the ballot.

**Rule 17. Rules Concerning Verification of All Signatures on Petitions**

- 17.1 Rules concerning verification of statewide initiative petitions when all signatures are counted.
- 17.2 The process for checking all signatures shall be the same as for random sample of checking, with the following exceptions.
- 17.3 Each petition section shall be checked for evidence of disassembly. If it appears that the section was disassembled, all signatures on the petition section shall be rejected.
- 17.4 Checking the circulator's affidavit.
  - 17.4.1 Each petition section shall be checked for the completed circulator's affidavit. If the affidavit is not attached and completed, all signatures on the section of the petition shall be rejected.
  - 17.4.2 Each petition section shall be checked to assure that the notary clause at the end of the affidavit is completed. If any information is missing or if the date in the notary clause is not the same date as the circulator signed the affidavit, all signatures on the section of the petition shall be rejected.
  - 17.4.3 Except in the case of initiative petitions, the name of each circulator shall be checked to assure that the circulator was a registered elector at the time that the signatures were gathered. Any signatures gathered while the circulator was not a registered elector shall be rejected.
- 17.5 Each individual entry shall be verified using the same criteria as found in Rule 16.5.
- 17.6 Final Tally: After all of the sections have been checked, a final tally of all valid signatures shall be prepared and the statement of sufficiency issued.

**Rule 18. Rules Concerning Statement of Sufficiency for Statewide Petitions**

- 18.1 Within the time required by statute, the Secretary of State shall issue a statement of sufficiency or insufficiency.
- 18.2 The statement shall contain the name of the petition, the proponents, and the date the petition was submitted for verification.
- 18.3 The statement shall indicate the total number of entries, the total number of entries accepted, and the total number of entries rejected.
- 18.4 The statement shall indicate whether an insufficient number of entries was submitted, the number of presumed valid signatures if a random sample was conducted, and the number of valid signatures counted if every entry was counted.
- 18.5 Records: The designated election official shall assure that a record of all signatures rejected and the reasons for each rejection be maintained as public records.

**Rule 19. Rules Concerning Cure for Statewide Petitions**

- 19.1 Cure of petitions deemed insufficient.
- 19.2 If the proponents submit additional signatures within the permitted time, all signatures submitted in the addendum shall be checked using the process delineated in Rule 16 and Rule 17.
- 19.3 If the number of valid signatures in the addendum when added to the number of valid signatures given in the statement of insufficiency equals 110% or more of the required signatures, a statement of sufficiency shall be issued.
- 19.4 If the number of valid signatures in the addendum when added to the number of valid signatures given in the statement of insufficiency equals more than 90% but less than 110% of the required signatures and the initial check was by random sample, all of the previously submitted entries shall be checked. The total of valid signatures in the

original petition shall then be added to the number of valid signatures submitted in the addendum.

19.5 If the initial check was of every entry, then the total of valid signatures shall be added to the number of valid signatures submitted in the addendum.

19.6 The designated election official shall then issue a new statement of insufficiency or sufficiency which reports the total number of valid signatures submitted.

#### **Rule 20. Rules Concerning Protests**

20.1 Protests of statewide initiative petitions.

20.2 Protest of random sampling process.

20.2.1 Proponents and opponents may protest the process by which the numbers used in the calculations were generated.

20.2.2 Proponents and opponents may protest that the process used for determining entries and generating the random sample did not meet the requirements established by statute or rule.

20.2.3 Proponents and opponents may protest that entries were improperly accepted or rejected in that the requirements established by statute or rule were improperly applied.

(a) If the protest alleges that individual entries were improperly accepted or rejected, each individual entry must be listed and the reason for challenge must be given.

(b) The reason for challenge must state which of the requirements established by statute or rule were improperly applied.

20.2.4 Individual entries which were not checked by the Secretary of State may not be challenged as sufficient or insufficient.

20.3 Protest of petitions when all signatures are checked.

20.3.1 Proponents and opponents protesting the checking of petitions when each signature was checked must list each individual entry being protested and the reason for challenge.

20.3.2 The reason for challenge must state which of the requirements established by statute or rule were improperly applied.

20.3.3 The protest shall be deemed insufficient for each entry or class of entries challenged where the individual entry is not listed or the reason for the challenge is not given.

#### **Rule 21. Rules Concerning Ballot Issue Elections**

21.1 Placing measures on the ballot for coordinated odd-year elections.

21.1.1 For statewide elections, the Secretary of State shall be responsible for determining whether the proposed initiative concerns state matters arising under Section 20 of Article X of the State Constitution and as thus is eligible to appear on the ballot at an odd-year election.

21.1.2 For elections concerning counties or other political subdivisions, if the election is held as a coordinated election, each political subdivision shall determine whether the proposed initiative or referred measure is a local government matter arising under Section 20 of Article X of the State Constitution.

21.2 Written comments concerning ballot issues submitted to the designated election official for the political subdivision shall not be withdrawn after the end of the business day on the last Friday immediately preceding the forty-fifth day before the election.

**Rule 22. Rules Concerning Checking Candidate and Issue Petitions.**

- 22.1. Applicability. This rule shall apply to candidate and issue petitions authorized by law except as to municipal candidate or issue petitions.
- 22.2. Procedures for Preparing Petitions for Circulation.
  - 22.2.1 Each petition section shall have on it a consecutive four-digit number. The number may be printed by a printer, hand stamped with a manual stamp or handwritten. A petition section shall be either an individual sheet for signatures or multiple sheets which are stapled together.
  - 22.2.2 The lines on the petition section shall be consecutively numbered.
    - (a) The block of information which consists of the printed last name, first name, middle initial, county, signing date, resident street address, city and signature is considered a line.
  - 22.2.3 No petition shall be accepted which lists proponents other than those authorized by statute.
- 22.3. Procedures Concerning Count of Signatures and Verification of Petition.
  - 22.3.1 When the petitions are received, each section shall be date-stamped and consecutively numbered.
  - 22.3.2 Each line with writing shall be counted on each petition and shall be considered an entry. The number of entries for each page of the section shall be written on the page and the total entries for the section shall be written on the face of the petition section.
    - (a) A line that has no writing or marks on it shall not be considered an entry.
    - (b) A line that has writing on it but is completely crossed out shall not be considered an entry.
    - (c) A line which has writing on it but is incomplete or on its face contains an invalid signature or which is partially crossed out shall be considered an entry to be included in this count.
  - 22.3.3 Verification of petitions.
    - (a) Each reason for rejection of an entry shall be recorded by separate code and a master record of the rejected entries shall be maintained. A master record shall also be maintained of each entry that is accepted.
    - (b) Each section shall be checked for evidence of disassembly. If it appears that the section was disassembled, all entries in the section shall be rejected.
    - (c) The circulator's affidavit shall be checked for each entry. If the affidavit is not attached and completed, all entries in the section shall be rejected.
    - (d) The notary clause at the end of the affidavit shall be checked for each entry. If any information is missing or if the date on the notary clause is not the same date as the circulator signed the affidavit, all entries in the section shall be rejected.
    - (e) Except for initiative petitions, the name of each circulator shall be checked to assure that the circulator was an eligible elector in the political subdivision for which the petition is being circulated at the time that the signatures were gathered. If the circulator was not an eligible elector, all entries in the section shall be rejected.
    - (f) If the information on the current voter registration file does not match the

information on the entry, the circulator's voter registration history shall be checked to determine if the information on the affidavit matches the voter registration file at the time the affidavit was signed. If the information does not match, all entries in the section shall be rejected.

- (g) In accordance with the decision of the United States Supreme Court in *Buckley v. American Constitutional Law Foundation*, 520 U.S. 182 (1999), circulators of statewide initiative petitions are not required to be registered electors, but such circulators must still be "electors", which means that they must be (1) residents of the State of Colorado, (2) citizens of the United States, and (3) at least 18 years of age. If there is sufficient evidence to conclude that the circulator was not an elector at the time any signature was gathered, all entries in the section shall be rejected.

#### 22.3.4 Checking individual signatures.

- (a) Each individual entry shall be checked against the master voter registration files to assure that the elector was an eligible elector in the political subdivision at the time the petition was signed.
- (b) If the information on the current voter registration file does not match the information on the entry, the elector's voter registration history shall be checked to determine if the information on the entry matches the voter registration file at the time the entry was signed.
- (c) Name of eligible elector: to be accepted, the name on the entry must be in a form similar to that found on the voter registration record. Signatures that are common variants of the name found on the voter record shall be counted. If the signer of the petition is not found on the voter registration file, or if applicable the county assessors' list, the entry shall be rejected.
- (d) Middle initial and additional terms.
  - (I) If the middle initial or middle name is not part of either the signature line or the voter record but is included on the other document, if the first and last name are the same on both documents, the entry shall be accepted.
  - (II) If the middle initial or middle name on the signature line is different than the middle initial or middle name on the voter record, the entry shall be rejected.
  - (III) If an indicator such as Jr., Sr., or II is present or omitted from the petition or the voter record, the entry shall be accepted. If two persons with the same name reside at the same address as found on the master voter list, the entry shall be rejected, unless the identity of the signer can be conclusively determined.
- (e) Address of eligible elector.
  - (I) If the address written on the line does not match the address on the voter record or on the voter history for the date when the signature was taken, the entry shall be rejected.
  - (II) If the address on the petition either includes or omits a letter or number identifying an apartment or the directional location of a street, such as "E" for east, "SW" for southwest, etc., the entry shall be accepted.

- (III) If the signer gave a post office box for the address, the entry shall be rejected.
  - (f) Incomplete information: if the line of the petition is incomplete, with at least one piece of information omitted, the entry shall be rejected.
  - (g) Date of signing.
    - (I) If a signature is placed on the petition prior to the final approval of the petition format by the designated election official, the entry shall be rejected.
    - (II) If the signer was not an eligible elector in the political subdivision at the time of signing, the entry shall be rejected.
    - (III) If a signature is placed on the petition after the date on the circulator's affidavit, the entry shall be rejected.
  - (h) Assistance to signer: if assistance appears to have been given to the signer and a statement of assistance does not accompany the signature or mark explaining the variance in the script, the entry shall be rejected.
  - (i) Illegible signature: if the signature and printed name are illegible so that the voter record cannot be verified, the entry shall be rejected.
  - (j) Duplicate signature: if the elector has previously signed the same petition, the first valid entry shall be counted and all other entries shall be rejected.
    - (I) Where an elector may sign more than one petition, the first signature(s) filed up to the maximum allowed, shall be the ones that are counted.
- 22.3.5 Final Tally: After all of the sections have been checked, a final tally of all valid signatures shall be prepared and the statement of sufficiency or insufficiency issued.
- 22.4 Statement of sufficiency or insufficiency.
  - 22.4.1 Within the time required by statute, the designated election official shall issue a statement of sufficiency or insufficiency.
  - 22.4.2 The statement shall contain the name of the petition, the proponents, and the date the petition was submitted for verification.
  - 22.4.3 The statement shall indicate the total number of entries, the total number of entries accepted, and the total number of entries rejected.
  - 22.4.4 Records: The designated election official shall assure that a record of all signatures rejected and the reasons for each rejection be maintained as public records.
- Rule 23. Rules Concerning Referendum Petitions. 1-40-132 C.R.S.; 1-1-107(2)(a) C.R.S.**
- 23.1 Applicability. This Rule 23 applies to statewide referendum petitions pursuant to Article V, Section 1 (3) of the Colorado Constitution.
- 23.2 Relationship to statutory and constitutional provisions.
  - 23.2.1 The purpose of this Rule 23 is to administer and interpret, but not supersede, the provisions of Article V, Section 1, Colorado Constitution, and Article 40 of Title 1, Colorado Revised Statutes, that apply to referendum petitions.
  - 23.2.2 Where there is an irreconcilable conflict between this Rule 23 and any such statutory or constitutional provision, then such statutory or constitutional provision prevails.
- 23.3 Applicability of initiative statutes.

- 23.3.1 Except where this Rule 23 otherwise provides, or where the context otherwise requires, any statutory or constitutional provision that applies specifically to initiative petitions shall also apply to referendum petitions.
- 23.3.2 The following procedural steps that apply to initiative petitions do not apply to referendum petitions:
- (a) Review and comment by legislative staff on the text of proposed initiated constitutional amendments and initiated laws, pursuant to Article V, Section 1 (5), Colorado Constitution, and Section 1-40-105, C.R.S.
  - (b) Title-setting by the title setting review board established in Section 1-40-106, C.R.S.
- 23.4 Approval of referendum petition form.
- 23.4.1 No referendum petition shall be printed, published, or otherwise circulated unless the form and the master original to be used for printing or reproduction have been approved by the Secretary of State. 1-40-113(1) C.R.S.
- 23.4.2 A referendum petition may be submitted to the Secretary of State for approval at any time after the bill has been presented to the governor for approval or disapproval. The Secretary of State shall not issue final approval of the referendum petition form until the bill has become law pursuant to Article IV, Section 11 of the Colorado Constitution.
- 23.4.3 Each referendum petition section shall consist of the following, in the order listed: 1-40-113(1) C.R.S.; 1-40-102(6) C.R.S.
- (a) The warning as specified in Section 1-40-110, C.R.S.
  - (b) The heading "Referendum Petition", followed by the demand upon the Secretary of State in substantially the following form, in which the underlined material is only for example:  
 "To: The Honorable \_\_\_\_\_, Secretary of State of the State of Colorado  
 We, the undersigned electors of the State of Colorado, do hereby respectfully petition, order, and demand that Sections 1 to 12, inclusive (being the entire Act), of House Bill No. 02-1010, by Representatives Abel, Baker, and Cain, and Senators Smith, Thomas, and Jones, entitled "Concerning registration requirements for motor vehicles, and, in connection therewith, authorizing two- and five-year registration periods and authorizing discretionary vehicle identification number inspections, and making an appropriation", passed by the Sixty-third General Assembly of the State of Colorado, at its regular session in the year 2002, shall be submitted to the voters for their adoption or rejection at the next biennial regular general election, to be held on Tuesday, the 5th day of November, 2002, and each of the signers of this petition says:

I sign this petition in my own proper person only, and I am a registered elector of the State of Colorado, my residence address and the date of my signing this petition are correctly written immediately after my name, and I do hereby designate the following persons to represent me in all matters affecting this petition:"

    - (c) The name and mailing address of two persons who are designated to represent the signers thereof in all matters affecting the same.
    - (d) The ballot title and submission clause in the form required by this Rule 23.



- (e) The text of the Act, or the item(s), section(s), or part(s) of the Act, on which the referendum is demanded. 1-40-110; 1-40-102(6)
  - (f) Succeeding pages that each contain the warning, the ballot title, and submission clause, and ruled lines numbered consecutively for electors' signatures.
  - (g) A final page that contains the circulator's affidavit required by section 1-40-111 (2), C.R.S., except that, instead of a statement that the circulator is a registered elector, the affidavit shall include a statement that the circulator is a resident of the State of Colorado, a citizen of the United States, and at least 18 years of age. Rule 22.3.3(g)
- 23.4.4 Each referendum petition section shall include only the matters required by Article 40, Title 1, C.R.S., and this Rule 23, and no extraneous material. 1-40-113(1) C.R.S.
- 23.5 Ballot Title and Submission Clause.
- 23.5.1 The ballot title shall consist of the title of the act on which the referendum is demanded, followed by the bill number, in substantially the following form, in which the underlined material is only for example:
- “An Act concerning registration requirements for motor vehicles, and, in connection therewith, authorizing two- and five-year registration periods and authorizing discretionary vehicle identification number inspections, and making an appropriation, being House Bill No. 02-1010.”
- 23.5.2 When referendum is demanded on less than an entire Act of the General Assembly, the ballot title and submission clause shall consist of the ballot title preceded by words in substantially the following form, in which the underscored material is only for example, and ending in a question mark:
- “Shall Section 3 (concerning definition of terms) and Section 4 (eliminating licensing requirements for motor vehicle dealers) of the following Act of the General Assembly be approved:” The material in parentheses shall correctly and fairly summarize the subject or the effect of the portion of the Act referenced.
- 23.6 Election. If a referendum petition is timely filed with the Secretary of State with a sufficient number of valid signatures, it shall be voted upon at the next general election that occurs at least three months after the referendum petition is filed with the Secretary of State.

#### **Rule 24. Rules concerning Congressional Term Limits Declaration**

- 24.1 The Secretary of State shall make available to every candidate for United States House of Representatives or the United States Senate the Congressional Term Limits Declaration provided in Article XVIII, Section 12a of the Colorado Constitution. The Secretary of State will offer the Congressional Term Limits Declaration to every such candidate when the candidate files his or her candidate affidavit with the Secretary of State. Any failure of the Secretary of State to offer the Congressional Term Limits Declaration to a candidate shall have no effect on such candidate's candidacy.
- 24.2 Part A of the Term Limits Declaration shall be accepted by the Secretary of State if Part B of the Term Limits Declaration has not been duly executed and submitted. Art. XVIII, sec. 12a (7)
- 24.3 In the case of a candidate who has qualified as a candidate for a term that would exceed the number of terms set forth in Term Limits Declaration One, the Secretary of

State shall not place the words, "Signed declaration to limit service to [3 terms] [2 terms]" after the candidate's name, even if the candidate has executed and submitted Parts A and B of Term Limits Declaration One.

**Rule 25. Rules Concerning Uniformed and Overseas Citizens' Absentee Voting Act ("UOCAVA")**

- 25.1 U.S citizens who are absent from the state and who are members of the Uniformed Services as defined as the U.S. Armed Forces (Army, Navy, Marines, Air Force and Coast Guard), Merchant Marine, and their spouses or dependants, resident overseas electors, or nonresident overseas electors who are otherwise qualified to apply for and vote by absentee ballot, ("UOCAVA citizens"), may request an absentee ballot by facsimile transmission.
- 25.2 A designated election official may send and receive absentee ballot applications by facsimile transmission, send blank ballots and accept voted ballots by facsimile transmission from eligible electors who are UOCAVA citizens absent from the state and who are otherwise qualified to vote by absentee ballot.
- 25.3 If the designated election official has mailed a Clarification for Voter Status Memorandum to an elector in response to receiving an absentee ballot request and has not received a response to the memo at the time the absentee ballot packet is prepared, the designated election official shall mail the elector a full ballot for which the elector, as a resident, would be eligible to vote (federal, state, local offices and questions).
- 25.4 No later than January 1, 2006, the office of each county clerk and recorder shall have a dedicated fax machine located in their office in order to send and receive faxed ballots to and from UOCAVA citizens in accordance with the Help America Vote Act of 2002 and this Rule 25.
  - 25.4.1 Prior to January 1, 2006, if the clerk and recorder maintains a dedicated fax machine, UOCAVA ballots will be faxed to that local machine.
  - 25.4.2 Prior to January 1, 2006, if the county clerk and recorder does not maintain a dedicated fax machine, the clerk and recorder shall be required to send a ballot by facsimile with instructions for the return of the ballot. The elector must then fax the voted ballot to the office of the Secretary of State. The Secretary of State shall send the ballot via overnight mail to the appropriate county.
- 25.5 Faxed ballot applications returned via facsimile transmission by the elector to the county clerk and recorder or the Secretary of State shall be received in the clerk and recorder's office or the Secretary of State's office no later than the close of business on the Friday immediately preceding the election.
  - 25.5.1 Any ballot faxed to an elector shall contain a unique identification number for tracking and auditing purposes.
- 25.6 On the faxed application, the elector shall provide the fax number, including the international country code and local area, province or city code (if applicable), where the ballot shall be faxed.
- 25.7 A log shall be kept by the designated election official of each ballot sent to an elector by facsimile indicating:
  - (a) The name of the elector;
  - (b) The fax number to which the ballot was sent;
  - (c) The unique identification number of the faxed ballot;
  - (d) The date the ballot and instructions were faxed; and

- (e) The initials of the employee of the designated election official sending the fax.
- 25.7.1 The fax transmission log as well as any other fax records shall be maintained as part of the official election record.
- 25.8 Absentee ballots sent by facsimile transmission shall be in text format on 8 ½" x 11" white paper to increase the readability of the ballot and to avoid possible misinterpretations of the elector's intended choice because of poor transmission of the document.
- 25.9 Instructions faxed to the elector with the blank ballot shall be in text format on 8 ½" x 11" white paper and shall include the following information:
  - (a) The dedicated fax number to which the voted ballot shall be returned (if applicable);
  - (b) The total number of pages transmitted;
  - (c) The total number of ballot pages;
  - (d) The telephone number or e-mail address where the eligible elector may send questions regarding the fax absentee ballot;
  - (e) A notice that the ballot shall not be duplicated for any other elector;
  - (f) A notice that once the ballot is returned by an elector, it will be counted pursuant to 1-8-116(4) C.R.S.; however, if an elector requests a replacement ballot, the first ballot returned will be counted pursuant to 1-8-111(3) C.R.S.;
  - (g) A notice that the voted ballot must be received by the clerk and recorder or Secretary of State no later than 7:00 p.m. Mountain Standard Time on election day;
  - (h) A request for an e-mail address to which a confirmation notice of receipt of the ballot may be sent at the discretion of the county clerk and recorder; and
  - (i) Any other information deemed necessary by the Secretary of State or the designated election official.
- 25.10 The designated election official shall fax a blank ballot with the instructions to the fax number provided by the elector. If the transmission is unsuccessful, the designated election official shall attempt to fax the ballot at least two more times.
- 25.11 An Absentee ballot that is completed and returned by the elector via facsimile transmission must contain the elector's printed name, signature, date of birth, and the following statement: "I am a member of the Uniformed Services, a member of the Merchant Marine, spouse/dependant of a Uniformed Services Member or Merchant Marine, resident overseas elector or a nonresident overseas elector and am qualified to apply for and vote by absentee ballot. I also understand that by faxing my voted ballot, I am voluntarily waiving my right to a secret ballot."
- 25.12 Any voted ballot by a Uniformed Services elector or an overseas elector received by the office of the Secretary of State by 7:00 p.m. Mountain Standard Time on election day shall be forwarded to the appropriate county clerk and recorder by overnight mail, fax, or courier no later than the next business day. The office of the Secretary of State shall immediately notify the appropriate county clerk and recorder of the receipt and forwarding of the ballot.
  - 25.12.1 If a county is notified by the Secretary of State by 7:00 p.m. on election day that

- an absentee ballot has been received by the office of the Secretary of State, the clerk and recorder shall retain a minimum of ten (10) voted ballots, which shall be counted with the ballot received by the Secretary of State to ensure voter secrecy.
- 25.13 The county clerk and recorder shall report to the Secretary of State's office no later than sixty (60) days from the date of the election:
- (a) The combined number of absentee ballots transmitted (faxed and mailed)
  - (b) The combined number of absentee ballots that were returned (faxed and mailed);
  - (c) The total number of absentee ballots that were counted (faxed and mailed).

**Rule 26. Rules Concerning Provisional Voting**

- 26.1 General Rules Regarding Provisional Voting
- 26.1.1 Eligible electors who have moved within the State of Colorado before the registration deadline may vote a provisional ballot at the polling place on Election Day or in the clerk and recorder's office or designated offices.
- 26.1.2 If the provisional ballot envelope is used as a voter registration form, it is subject to the same requirements as any other voter registration form.
- 26.1.3 An elector who has requested an absentee ballot shall be permitted to cast a provisional ballot upon his or her declaration that they have not and will not cast any vote in the election other than by that provisional ballot.
- 26.1.4 Provisional ballots for voters who have requested absentee ballots shall be separated from other provisional ballots and shall not be counted until all absentee ballots cast in the election have been counted.
- 26.2 Emergency Registration and use of Provisional Ballots in the County Clerk and Recorder's Office
- 26.2.1 If the elector applies for an emergency registration that cannot be qualified in the clerk's office at the time of the registration pursuant to 1-2-217.5(4) C.R.S., the elector shall be issued a provisional ballot. The elector's registration must be confirmed by the designated election official at the time that the provisional ballots are verified or the provisional ballot shall not be counted.
- 26.2.2 If an elector whose name is not in the registration records, appears in person at the county clerk and recorder's office and states that he or she has timely registered through a Voter Registration Drive ("VRD") or an agency pursuant to 1-2-504 C.R.S. and has both an application receipt and an ID as defined in 1-1-104(19.5) C.R.S. the elector shall be offered emergency registration and be offered a regular ballot.
- 26.2.2.1 If the elector does not provide an id and/or an application receipt, the elector shall be offered a provisional ballot. the county clerk and recorder shall note on the provisional ballot envelope that the elector did not have an id or an application receipt.
- 26.2.2.2 If the elector is able to produce an application receipt from the VRD or agency registration, but does not provide an id pursuant to 1-1-104(19.5) C.R.S., the elector shall surrender the receipt to the election judge, and the county clerk and recorder shall attach the receipt to the provisional ballot envelope.
- 26.2.2.3 If the elector's eligibility to vote cannot be verified, the provisional ballot shall not count, but may constitute a registration for future elections.

- 26.3 Provisional Voting in the Polling Place
- 26.3.1 If the elector does not provide a date in the “Previous Residence Information” section of the provisional ballot envelope stating when the elector moved to the address he or she listed as his or her legal residence on the provisional ballot envelope, the designated election official shall attempt to verify the provisional ballot. If the provisional ballot can be verified, it shall be counted. If it cannot be verified, it shall not be counted.
- 26.3.2 If the elector whose name does not appear on the pollbook states that he or she applied to register to vote prior to the close of registration with a VRD or agency pursuant to 1-2-504 C.R.S., the election judge shall:
- Offer the elector a provisional ballot;
  - Ask the elector to surrender the application receipt;
  - Check the box on the provisional ballot envelope indicating that the voter is a VRD or agency applicant, and
  - Attach the receipt to the outside of the provisional ballot envelope.
- 26.3.3 The word “provisional” shall be marked on the provisional ballot and on the pollbook or signature card next to the elector’s name.
- 26.4 Verification of Provisional Ballots
- 26.4.1 When the designated election official has concluded that all voted provisional ballots have been delivered to and received by the election office, the designated election official shall determine the time that provisional verification and processing begins in accordance with the deadlines set forth in title one and these rules. The designated election official or designee shall complete preliminary verification without opening the provisional ballot envelopes.
- 26.4.2 When verifying provisional ballots, the designated election official must check the county voter registration database to see whether the elector has already voted in the election.
- 26.4.3 When the designated election official has received both an absentee ballot and a provisional ballot from an elector, but there is a discrepancy between the signature on the returned absentee ballot envelope and the voter’s signature on file with the county clerk and recorder, the discrepancy must be resolved. Before the provisional ballot may be counted, the elector must affirm that the signature on the absentee ballot envelope is not his or her signature. 1-8.5-105(4) and (5) C.R.S.
- 26.4.4 Verification of an elector’s eligibility to have his or her provisional ballot counted shall be limited to the following sources to determine proof of voter registration:
- (a) Sources provided by the Secretary of State or law enforcement agencies regarding felons who are serving a sentence of detention or confinement or on parole;
  - (b) The local election office voter registration database;
  - (c) The Secretary of State’s voter registration database;
  - (d) The DMV Motor Voter database (Note: Possession of a driver’s license is not conclusive proof of voter registration; elector must have registered to vote through the DMV.)
- 26.4.5 For any non-matching or missing signature on a provisional ballot envelope, Rule 29 concerning procedures for the verification of signatures shall be followed.

## 26.5 Counting of Provisional Ballots

26.5.1 If the information contained in the provisional ballot envelope provides adequate criteria so that the designated election official is able to confirm under election rule 26 that the elector is registered, the provisional ballot shall count.

26.5.2 Pursuant to 1-2-509(3) C.R.S., if the designated election official receives a provisional ballot from a voter who registered to vote but had an incomplete or deficient voter registration application, and did not supply the required information at the time of registration, at any time prior to voting, or on the provisional ballot envelope, the provisional ballot shall not be counted. If the voter does supply the required information prior to or at the time of voting, then the provisional ballot may be counted.

26.5.3 Acceptance Codes (Any provisional ballot given an acceptance code shall be counted. However codes ADB, AEJ & AFS apply under those circumstances where only the state and federal races, issues and questions upon which the elector may vote shall be counted):

AOK Reviewed and confirmed voter's eligibility.

ADB Election official is knowledgeable that the elector was erroneously sent to the wrong precinct or erroneously given the wrong ballot style in the elector's correct precinct. Voted ballot will be duplicated and only races and issues for which the elector is qualified to vote shall be counted.

AEJ Election judge who was appointed after close of early and absentee voting and is working outside his or her precinct; judge shall vote on a ballot in the precinct in which he or she is working; voted ballot will be duplicated so that only the races and issues for which the judge is qualified to vote shall be counted.

AAB Voter appeared in person and affirmed under oath that he or she applied for an absentee ballot but he or she has not and will not cast the absentee ballot. The designated election official shall determine that voter did not previously cast an absentee ballot for that election pursuant to Rule 26.

ACP voter moved from the county in which the voter was registered to another county in the state not less than thirty days before the election and voted in the correct precinct in the new county of residence. Voter's address will be updated. 1-8.5-107(2)(a) C.R.S.

AFS Voter is registered in the county but is voting in the wrong precinct or the voter moved from the county in which the voter was registered to another county in the state less than thirty days before the election. Only the votes for federal and statewide offices and statewide ballot issues and questions upon which the voter may vote shall be counted. 1-8.5-108(2) C.R.S.

AVD Voter registered through a voter registration drive and the application receipt was surrendered to the election judge.

AAG Voter registered through an agency and application receipt was surrendered to election judge.

ARD Voter had deficient or incomplete registration. The required information was provided by voter on the provisional ballot envelope. Voter's registration will be amended and registration will be complete. 1-2-509(3) C.R.S.

26.5.4 Rejection Codes (Any ballot given a rejection code shall not be counted):

- RFS (Rejection federal or state) No federal or state candidates or issues to duplicate.
- RNS (Rejection not signed) Provisional Ballot Affidavit not signed.
- RIN (Rejection incomplete information provided) Required information is incomplete and the designated election official is unable to confirm voter's eligibility.
- RNR (Rejection not registered) Voter did not register by the voter registration deadline or by emergency registration, Colorado voter registration record was not found, or voter was previously cancelled and has not been reinstated pursuant to 1-2-605(10). C.R.S.
- REE (Rejection envelope empty) Provisional ballot envelope is empty.
- RAB (Rejection voter voted absentee) Designated election official has confirmed that voter voted an absentee ballot.
- REV (Rejection based on ballot cast in early voting) Voter voted early.
- RIP (Rejection based on incorrect party) Incorrect Party in Primary Election.
- RFE (Rejection felon not eligible to vote) Individual was convicted of a felony and is either serving a sentence of confinement or detention or is on parole.
- RWC (Rejection elector not registered in county or State of Colorado) Non-county or non-state resident; therefore voter not eligible to vote in the county where the provisional ballot was voted.
- RID (Rejection first time voter has not supplied identification upon registration or thereafter prior to and during time voter voted) First Time Voter who registered by mail or through a voter registration drive, is tagged as id deficient, and did not provide id at the time of voting.
- RRD (Rejection registration deficient) Voter had deficient or incomplete registration and required information was not provided prior to or at the time of filling in the provisional ballot envelope. Voter's eligibility cannot be established. 1-2-509(3) C.R.S.

26.6 The provisional ballot log required by 1-8.5-110 (4) C.R.S. may be prepared by the designated election official in handwritten or computer-generated form.

26.7 Recount procedures for provisional ballots shall be the same as the recount procedures for absentee ballots as directed by the Secretary of State.

26.8 Pursuant to 1-8.5-102(2) C.R.S., the provisional ballot affidavit shall contain the following language:

I do solemnly affirm that I am a citizen of the United States, that I have attained the age of eighteen years, and that I have resided in the State of Colorado and in my present precinct at least thirty days before the election, or at my current residence address since the date I moved as shown above. I further affirm that the address indicated in this affidavit is my sole legal residence and that I claim no other place as my legal residence. I affirm that if I applied for an Absentee Ballot I have not and will not cast the Absentee Ballot that I requested. I further affirm under penalty of law that I have not and will not cast any vote in this election except by the enclosed ballot, that I will not vote in any other precinct, county or state, and that my ballot is enclosed in accordance with the provisions of the "Uniform Election Code of 1992", Article 1 to 13 of Title 1, C.R.S.

- 26.9 Pursuant to 1-8.5-103, C.R.S., the size of the provisional ballot envelope shall be in such a manner as to provide to the elector complete and legible information as shown on the state approved form. Any alterations to the standard format shall be submitted to the secretary of state pursuant to the policy statement concerning secretary of state approved forms.

## **Rule 27. Rules Concerning Uniform Ballot Counting Standards**

### **27.1 Definitions**

- 27.1.1 Blank Ballot. A blank ballot is one on which the voter has made no marks in any voting position, or has been marked with an unreadable marker, or is one which has been consistently marked outside of the “read” area of the scanner.
- 27.1.2 Chad. Chad is the small piece of paper or cardboard produced from a punch card ballot when a voter pierces a hole in a perforated, designated position on the ballot with a marking device to record the voter’s candidate, question, or issue choice.
- 27.1.3 Damaged Ballot. A damaged ballot is one that has been torn, bent, or otherwise mutilated or rendered unreadable, so that it cannot be processed by the optical scanner ballot reader.
- 27.1.4 Duplicated Ballot. A duplicated ballot is one for which a true copy is made in order to be properly processed and counted due to damage, improper marking or some other reason which would prevent a ballot tabulating machine from accurately counting the ballot.
- 27.1.5 Duplicated Provisional Ballot. A duplicated provisional ballot includes ballots duplicated for federal and state issues for which a provisional voter is eligible to vote.
- 27.1.6 Punch Card Ballot. A punch card ballot is a ballot card that contains small perforated design positions that a marking device must pierce to form a hole that records a voter’s candidate, question, or issue choice.
- 27.1.7 Overvote. An overvote is a race, question or issue which contains votes for more than the maximum number of candidates or responses for a ballot question or issue allowed.
- 27.1.8 Undervote. An undervote occurs when the voter does not vote for a candidate, question, or issue, or when more than one person in a race is available, the voter does not vote for the maximum number of votes allowed.
- 27.1.9 Vote in Optical Scan Ballots. A correctly voted optical scan ballot occurs when a voter, using a readable marker, fills in or connects the minimum number of ovals/arrows per race, question, or issue, not to exceed the maximum allowable votes per race, question or issue, without extending the vote mark beyond the parameters of the instructions.
- 27.1.10 Write-In Vote. A vote on a ballot on which the voter physically writes in the name of a legally qualified write-in candidate in the space reserved on the ballot for write-in votes and properly marks the oval or connects the arrow on optical scan ballots according to the directions provided to the voter.

### **27.2 Uniform Counting Standards for hand-counted Paper Ballots**

- 27.2.1 Judges counting ballots on election day shall take into consideration the intent of the voter.
- 27.2.2 If a ballot contains markings for more than the maximum votes allowed in a



candidate race or for a ballot issue or question, no vote shall count for that race, question, or issue. Judges shall take into consideration any notation by the voter that would clearly indicate the choice of the voter.

27.2.3 If an issue, question or candidate race contains no markings by the voter, no tally will be made for that race, question, or issue, but all other candidate races, issues, or questions properly marked by the voter on the ballot shall be counted.

27.2.4 A ballot which has no markings for any candidate races, issues or questions shall be tallied as a blank ballot, but the voter shall be given credit for voting.

27.2.5 If the intent of the voter is clear on a write-in vote, the write-in vote shall be counted for a legally qualified candidate.

### 27.3 Uniform Counting Standards for Optical Scan Ballots

#### 27.3.1 Precinct Optical Scan Procedures

(a) Voters whose ballots are rejected or sorted by the precinct counter as a blank or overvoted ballot shall be given the opportunity to correct their ballot.

(b) Ballots sorted to a write-in bin shall be tallied at the conclusion of the voting and delivered to the central counting center in a secure container.

#### 27.3.2 Central Count Optical Scan Procedures

(a) A resolution board, consisting of a team(s) of one (1) Republican and one (1) Democrat for partisan elections or two (2) qualified election judges for nonpartisan elections, shall resolve all ballots sorted by the central count optical scan equipment.

(1) The board shall be observed by two (2) witnesses, who in any partisan election shall be representatives of each major political party, who may not handle or process ballots.

(2) All persons engaged in the counting and processing of ballots shall be deputized or take an oath to faithfully perform their duties.

(3) The resolution board shall maintain a log for each step of verification, duplication, and counting according to Rule 11.5.8.

#### (b) Sequence of Resolution Procedures

(1) A zero tape shall be run indicating no votes cast or counted before the counting begins.

(2) Official ballots shall be processed through the optical scanner, with sorted overvotes, blank ballots, and write-in ballots viewed and resolved by the resolution board. Only ballots sorted by the machine shall be subject to review by the resolution board. If there are no legally qualified write-in candidates, the write-in sort option shall not be utilized. The number of each duplicated ballot shall be entered on the resolution board log sheet.

(3) All ballots which are sorted by the optical scanner and resolved by the resolution board by duplication are to be indicated as such and kept separate from the standard run ballots for the precinct.

(4) The precinct judge's ballot reconciliation form is compared to the number of scanned ballots for the precinct.

(5) After the final precinct has been tallied, the total write-in votes shall be indicated on the final summary along with the seal

- numbers for each sealed box of scanned ballots.
- (c) Resolution of optical scan ballots
    - (1) Damaged or defective ballots shall be duplicated utilizing the ballot duplication procedures as provided in Rule 27.3.3(c)(5).
    - (2) Blank ballots shall be examined by the resolution board to determine if the ballot is a true blank ballot or one that has been marked with a non-detectable mark. Resolution board members must make a duplicate copy of the ballot which has been marked with a non-detectable mark utilizing the ballot duplication procedures as set forth in Rule 27.3.3(c)(5). If a ballot is truly blank it shall be sent back for the resolution pass through the scanner, and the ballot tabulated with no races, issues or questions voted.
    - (3) Overvoted ballots shall be inspected by the resolution board. Ballots that reflect marks that are clearly identified as unintentional but register an overvote on the scanner must be duplicated by the resolution board utilizing the procedures for duplication of ballots. If more marks are completed in a race, question, or issue than what is allowed for that race, question, or issue the duplication board can only duplicate if there is a notation by the voter that would clearly indicate the choice of the voter.
    - (4) Write-in votes sorted by the optical scan equipment on election day shall be delivered to the assigned write-in board for hand counting. In order to be counted, the oval must be darkened or the arrow connected according to the appropriate voting instructions. Only votes for legally qualified write-in candidates shall be counted. When a race with a valid write-in is overvoted and the duplication board finds that a mark has been made for a valid candidate and the voter also wrote in the name of the same candidate on the write-in line and made a mark, the duplication board shall duplicate the ballot by making a mark by the name of the candidate printed on the ballot.
    - (5) The resolution board shall duplicate ballots by clearly labeling the new duplicate ballot as a “DUPLICATE” and assign a serial number which shall be recorded on both the original and duplicate ballot. For example, the first ballot in Precinct # 1 to be duplicated could be labeled as #1/001 with the duplicate labeled D#1/001. Original ballots shall be separated from the duplicate ballots and placed in an envelope clearly marked “ORIGINAL BALLOTS.” The duplicate ballots shall be counted in lieu of the original ballots.
    - (6) The resolution board shall maintain an official audit log setting forth the precinct number, duplicate ballot number, reason (with specificity) that the ballot was duplicated, date of duplication, and the initials of the members of the duplication board responsible for duplicating the ballot.
  - (d) Recount Procedures for Optical Scan

- (1) Optical scan equipment must be set to consistent sensitivity standards for each system type, must be tested prior to the recount, and shall be programmed to sort undervotes for the individual race(s), issue(s) or question(s) being recounted.
- (2) Recounts will include a visual inspection of all ballots cast for write-in candidates in the contested race(s) to determine voter intent.

#### 27.4 Uniform Counting Standards – Punch Card Voting Systems

27.4.1 Inspection of Ballots. Prior to the counting of the ballots by automatic tabulating equipment, at least one team of election personnel, which except in non-partisan elections shall consist of one member from each political party, shall inspect the ballots for loose chad, ballot damage, including holes that are too large, a ballot that is torn in the mail, etc., written instructions and corrections, and write-in votes. The purpose of the inspection shall be to insure that all ballots are machine-readable and that the voter's intent will be recorded correctly and accurately. In some instances, duplication of the ballot may be necessary in order to count the ballot.

- (a) All loose chad shall be removed to ensure that all of the voter's choices on the ballot are correctly and accurately reflected in the count.
  - (1) A chad that is unattached on two or more corners represents a vote and shall be removed.
  - (2) If a chad is attached to a punch card ballot by three or four corners, no vote shall be recorded for that candidate, issue or question choice at that particular ballot position, and the chad shall not be removed.
- (b) Dimpled mark or puncture on the attached chad.
  - (1) If a ballot has been punched according to instructions, but there exists a random dimpled mark or puncture located wholly on the non-removed chad, that mark or puncture shall be considered a random mark or puncture.
  - (2) If the ballot has not been punched according to instructions, but consists of a series of dimpled marks or punctures located wholly on the attached chad, those marks or punctures shall represent the voter's intent to vote for that designated position, and the ballot shall be duplicated accordingly.
  - (3) If a dimpled mark or puncture appears on the ballot anywhere other than completely on the chad, voter intent cannot be determined, and the ballot shall be duplicated without that dimple mark or puncture.
- (c) Damaged ballots. If the ballot has damage or defects that would cause problems in tallying, such as a ballot being torn in the mail, the ballot shall be duplicated to the extent possible, evidencing the voter's intent. If the voter's intent cannot be determined for a specific office, issue or question on the damaged ballot, that position shall be left blank on the duplicate ballot.
- (d) Voter instructions. If other material is included with the ballot or is

attached to the secrecy envelope, the material shall be inspected to determine if it has a bearing on the voter's intent. If the material has a bearing on the voter's intent, the original ballot shall be duplicated as necessary and the original ballot, along with the material, shall be placed in an envelope marked "Duplicated Ballot." (e) Write-In Votes.

- (1) Write-in votes shall be recorded on the secrecy envelope.
- (2) Only votes cast for legally qualified write-in candidates shall be considered valid and counted. Any write-in votes for candidates who are not legally qualified shall be disregarded and not counted.
- (3) On the punch card secrecy envelope, the voter must indicate both the name of the candidate being written and the office for which the candidate is running. If either candidate's name or the office for which the candidate is running is left off the secrecy envelope, then the intent of the voter cannot be determined and the vote shall not be counted. If the write-in vote is disregarded, any vote for that office on the punch card ballot itself shall be tabulated and counted.
- (4) If both the office name and the candidate's name are included in the write-in option on the secrecy envelope, the punch card ballot must be checked for any other votes for that office. If the write-in vote does not result in an overvote for that office, then all votes shall be tabulated and counted. If the write-in vote creates an overvote for that office, then neither vote shall be counted, and the punch card ballot shall be duplicated to reflect an overvote.
- (5) If the write-in line contains a name that is the same as the one that is printed on the ballot for that office, regardless of whether the ballot position for that candidate is punched out or not, then the write-in vote shall be disregarded, and the ballot shall be duplicated, if necessary, so that the tabulating machine will count the vote as a vote for the selected candidate.

#### 27.4.2 Duplication of Ballots.

- (a) Using the damaged ballot as the guide, a blank ballot shall be marked by a duplicating team, so that the votes recorded are identical to those indicated on the damaged ballot, and shall be proofed to insure that is marked properly and accurately.
- (b) A unique number shall be assigned to both the original and duplicated ballot. This will reference the two ballots together and provide an audit trail. (Example: the ballots may be marked XX-NNN, where XX is the precinct number and NNN are consecutive numbers starting with the number one.)
- (c) The duplicate ballot shall be placed with all other ballots to be counted.
- (d) The damaged or unreadable original ballot shall be marked "DUPLICATED" to indicate that the ballot has been duplicated and the duplication is completed. All duplicated original ballots for a precinct along with any applicable printed material shall be placed in an envelope and clearly marked "BALLOTS THAT HAVE BEEN DUPLICATED."

**Rule 28. Rules Concerning Election Judges**

- 28.1 For purposes of training election judges, an “election cycle” shall mean all elections held during a calendar year beginning with January 1 and ending December 31.

**Rule 29. Rules Concerning Procedures for the Verification of Signatures**

- 29.1 Missing Signature on Mail Ballot, Provisional Ballot or Absentee Ballot Envelope
- 29.1.1 When the election judge reviews the mail ballot return envelope pursuant to 1-7.5-107.3 C.R.S. or absentee ballot return envelope pursuant to 1-8-114.5 C.R.S. or the provisional ballot return envelope pursuant to 1-8.5-105(3)(a), and notices that the envelope lacks a signature, the election judge shall contact the eligible elector in writing no later than two calendar days after election day. A copy of the written notification shall be kept in an official file, which shall become part of the official election record. Nothing in this rule shall be construed to prohibit the designated election official from calling the elector; however, a phone call shall not substitute for notification to the elector in writing.
- 29.1.2 The letter shall inform the eligible elector that they must come to the office of the county clerk and recorder to sign the mail ballot, provisional ballot, or absentee ballot envelope no later than eight (8) calendar days after election day.
- 29.1.3 The letter sent by the election official shall not constitute a violation of 1-13-801 C.R.S.
- 29.1.4 The letter shall include the following language:  
“Any person who knowingly violates any of the provisions of the election code relative to the casting of ballots or who aids or abets fraud in connection with any vote cast, or to be cast, or attempted to be cast shall be punished by a fine of not more than five thousand dollars or by imprisonment in the county jail for not more than eighteen months, or by both such fine and imprisonment. 1-13-803 C.R.S.
- 29.2 In accordance with 1-8-114.5 C.R.S for absentee ballots and 1-7.5-107.3 C.R.S. for mail ballots, the election judges shall compare the signature on the self-affirmation on each respective “Return Envelope” shall be compared with the signature on file with the county clerk and recorder or election official. Signatures shall require further research if any of the following differences are discovered:  
Code 1 – An obvious change in the slant of the signature  
Code 2 – A printed signature on one document and a cursive signature on the other document  
Code 3 – Differences in the size or scale of the signature  
Code 4 – Differences in the individual characteristics of the signatures, such as how the “t’s” are crossed, “I’s” are dotted, loops are made on “Y’s” or “J’s”  
Code 5 – Differences in the voter’s signature style, such as how the letters are connected at the top and bottom  
Code 6 – Ballots or envelopes from the same household have been switched  
Code 7 – ‘Other,’ including misspelled names & description of discrepancy
- 29.3 If further research is necessary, the election judge shall check the county clerk’s or election official’s file for at least two additional documents signed by the voter, if available. Additional information, written by the voter on the “Return Envelope”, such as the voter’s address and date of signing may be compared for similarities. Any similarities noted when comparing this other information may be used as part of the

signature verification decision process.

- 29.3.1 If it appears to the judges verifying the self-affirmation on the return envelopes that members of the same household who have applied for absentee ballots or have been sent mail ballots have inadvertently switched envelopes or ballots, the ballot or ballots shall be counted and no letter of advisement to the elector is necessary.
- 29.4 Whenever a signature is disputed, the election judge shall document the discrepancy by completing a log. The log shall provide a record of the research steps taken to resolve the issue. The log will identify the voter using a unique tracking number. This tracking number shall not contain the voter's social security number, Colorado issued driver's license number, or the identification number issued by the Department of Revenue.
- 29.5 The log shall be approved by the Secretary of State pursuant to 1-1-109, C.R.S.
- 29.6 There shall be no document containing the voter's signature attached to the research log.
- 29.7 If both sets of election judges agree that the signatures do not match, The county clerk and recorder shall within two days after the election, send a letter to the eligible elector at the address indicated in the registration records and the address where the absentee or mail ballot was mailed explaining the discrepancy in signatures and a form for the eligible elector to confirm that the elector returned a ballot to the county clerk and recorder. (1-7.5-107.3(2)(a), 1-8-114.5(2)(a) C.R.S.). The voted ballot itself should not under any circumstances be returned with this letter.
- 29.8 The form of the letter as well as the form sent to the elector shall be approved by the Secretary of State pursuant to 1-1-109, C.R.S.
- 29.9 The letter sent by the election official shall not constitute a violation of 1-13-801 C.R.S.
- 29.10 The letter shall include the following language:  
"Any person who knowingly violates any of the provisions of the election code relative to the casting of ballots or who aids or abets fraud in connection with any vote cast, or to be cast, or attempted to be cast shall be punished by a fine of not more than five thousand dollars or by imprisonment in the county jail for not more than eighteen months, or by both such fine and imprisonment. 1-13-803 C.R.S."
- 29.11 The final signature verification resolution and ballot disposition shall be noted on the research log.
- 29.12 Any uncounted ballot shall remain sealed in the return envelope and stored under seal with all other uncounted ballots as part of the election record pursuant to 1-7-802 C.R.S. and may be removed only under the authority of a district attorney or by order of a court having jurisdiction.

### **Rule 30. Rules Concerning Voter Identification**

- 30.1 Definitions
- 30.1.1 "Registration in person" means any registration personally completed by the voter at any clerk's main or branch office or personally delivered by the voter to any clerk's main or branch office, driver's license office, or other voter registration agency.
- 30.1.2 "Mail Registration" or "Registration by mail" includes any registration not personally delivered by the voter to any clerk's main or branch office, voter registration agency, driver's license office, or other human services agency. These registrations include, but are not limited to, postmarked registration forms and voter registration drives.

- 30.1.3 As referenced in these rules, “tagging a voter” for ID before voting means identifying a voter in the voter registration database as one who registered by mail and did not supply required identification. Tagged voters require a copy of the required identification to be enclosed with an absentee or mail ballot.
- 30.1.4 A tagged voter may present the required voter ID or a number which is subsequently verified to the county clerk and recorder at any time prior to returning a voted mail or absentee ballot to satisfy the provisions of Rule 30.1.3.
- 30.1.5 “SSN” as used in these rules shall mean either the entire Social Security Number or the last four (4) digits of the Social Security Number.
- 30.1.6 “ID” as used in these rules shall mean identification as defined in Rules 30.3, 30.4, 30.13 and 30.14 in compliance with 1-1-104(19.5) C.R.S.
- 30.2 Requirements for providing an ID or ID # and verifying an ID # shall be effective January 1, 2003.
- 30.3 Voter registration in person.
- 30.3.1 Registering in Person. The elector must provide:
- A valid Colorado Driver’s License number; or
  - A valid Department of Revenue Identification number; or
  - At least the four last digits of the elector’s social security number.
- Authority: 1-2-204(2)(f.5) C.R.S.
- 30.3.2 A voter is not required to show or present his current and valid Colorado driver’s license or ID. It is sufficient for the voter to provide the ID number.
- 30.3.3 In the event the registrant has but refuses to give a CO Driver’s License, ID number, and SSN, or the registrant provides only one of these numbers, the registrar shall nevertheless register the voter.
- 30.3.4 Prior to the creation of the statewide voter registration database, if an applicant for voter registration refuses to provide or has not been issued a current and valid Colorado driver’s license, or a current and valid identification card issued by the Department of Revenue, or a social security number, the election official shall nevertheless register the voter. The applicant shall be assigned a unique identification number that will serve to identify the applicant for voter registration purposes. 1-2-204 (2.5) C.R.S.
- 30.4 Voter Registration by Mail
- 30.4.1 Registering by Mail. (Including Voter Registration Drives).
- (a) The elector must provide a copy of one of the forms of identification listed in Rule 2.3(a).
- (b) Or the elector must provide one of the following identification numbers:  
At least the last four digits of the person’s social security number; or  
The person’s Colorado driver’s license number; or  
The number of an identification card issued by the Department of Revenue.
- Authority: 1-2-501(2)(b) C.R.S.; 1-1-104(19.5) C.R.S.
- 30.4.2 For any Colorado driver’s license, number of an identification card issued by the Department of Revenue, or Social Security Number listed on a registration by mail where a copy of the Colorado driver’s license, or the identification card is not enclosed with the application, the ID shall be verified against the Department of Motor Vehicle Motor/Voter Database and the Secretary of State voter

registration database. When access to the Social Security database becomes available, that database shall also be utilized. If the number cannot be verified, the voter's record will be tagged. Upon creation of the statewide voter registration system, the check will be performed automatically.

- 30.4.3 If, for a registration by mail, a copy of the ID is enclosed per 1-1-104(19.5) C.R.S., no further verification against the Department of Motor Vehicle Motor/Voter Database, the Secretary of State voter registration database and the Social Security database is required. The elector is allowed to vote by mail or absentee ballot without additional identification requirements.
- 30.4.4 Verification shall include a match of name, date of birth and ID number on an existing state identification record. A match of only one or two of these items shall not be considered verification. During verification, names given which are similar common variants or nicknames of the name shall be acceptable.
- 30.4.5 Subject to SOS Election Rules 30.5.5, if the identification number supplied does not match the identification number on the database record for the name and date of birth, the registration by mail shall not be considered verified. However, if the voter has made a minor error, the Clerk and Recorder may use good judgment and correct the error, and consider the voter verified. Minor errors include, but are not limited to, a transposition of two numbers, or accidentally adding or omitting a number.
- 30.5 Verification of Identification:
  - 30.5.1 Prior to the creation of the statewide voter registration database, for any ID shown or ID # given for registration in person, the ID is not required to be verified against the Driver's License or SS database.
  - 30.5.2 Prior to the implementation of the statewide voter registration database, where a voter lists on a registration by mail a Colorado driver's license number, Colorado ID# number, or the last four digits of a Social Security Number but the voter did not enclose a copy of the Colorado driver's license, or Colorado ID number with the application, the ID shall be verified against the Driver's License and the Secretary of State voter database.
  - 30.5.3 Prior to the implementation of the statewide voter registration database, if, for a registration by mail, a copy of the ID is enclosed per 1-1-104(19.5), no further verification pursuant to Rule 26 against the Motor Vehicle Motor/Voter Database, the Secretary of State's voter database or Social Security database is required. The elector is allowed to vote by mail or absentee without additional identification requirements.
  - 30.5.4 Verification shall include a match of name, date of birth and ID number on an existing state identification record. A match of only one or two of these items shall not be considered verification.
  - 30.5.5 If the identification number supplied does not match the identification number on the database record for the name and date of birth, the registration by mail shall not be considered verified and the registration record shall be ID tagged.
- 30.6 Tagging a voter:
  - 30.6.1 Only a voter who has registered by mail may be tagged; a person who registers in person shall not be tagged.
  - 30.6.2 A voter who registers by mail and provides a copy of an acceptable ID as



- provided in 1-1-104(19.5) shall not be tagged. A SSN card is not listed as ID in 1-1-104(19.5).
- 30.6.3 If a voter registers by mail and supplies a Colorado driver's license or Colorado Department of Revenue ID number (but not a copy of either) and/or the SSN, and if at least one of the numbers can be verified with an existing state identification record bearing the same number, name and date of birth, the voter shall not be tagged.
- 30.6.4 A voter, who does not supply a copy of an acceptable ID as provided in 1-1-104(19.5) or does not list his/her SSN#, the number of his/her Colorado driver's license or Colorado Department of Revenue ID#, shall be tagged.
- 30.6.5 If a voter registers by mail and supplies either a Colorado driver's license number or Colorado Department of Revenue ID# (but not a copy of either) and/or SSN, but no number can be verified with an existing state identification record bearing the same number, name and date of birth against the Driver's License database, Secretary of State voter database or Social Security database once access to the Social Security database becomes available, the voter shall be tagged.
- 30.6.6 The tag status for a voter shall be removed if the voter votes in person showing an acceptable ID or votes by mail or absentee and encloses a valid ID.
- 30.6.7 If the identification number supplied is discovered as incorrect upon verification, the clerk and recorder may enter the correct number, but the voter shall be tagged.
- 30.7 If an elector registering by mail does not provide a Colorado Driver's License Number or a Department of Revenue ID# or the last four digits of the elector's SSN on the voter registration application, and the county clerk and recorder discovers such identification number, the clerk and recorder may enter the applicable identification number on the elector's permanent voter registration record. Any number entered on the elector's permanent voter registration record by the clerk and recorder does not remove the tag status of a voter. Such voter is still required to provide valid identification prior to voting.
- 30.8 Addresses on identification
- 30.8.1 If ID presented lists only a box number or Post Office box number instead of a residence address, the registrar shall accept the voter's affirmation, as long as the city is in Colorado.
- 30.8.2 Some forms of identification may not contain an address. If the address appears on the identification, the address must be in Colorado.
- 30.8.3 Utility bills, bank statements, government checks, paychecks or other government documents must show the name of the elector and Colorado address.
- 30.9 A suspended license is considered current and valid. A revoked or expired license is not considered current and valid and is not acceptable.
- 30.10 As used in 1-1-104(19.5)(a)(VII) "current" refers to current utility bill, current bank statement, and current government check, paycheck, or other government document that shows the name and address of the elector. Current means that the date of the document is within 60 days of the date submitted for identification purposes unless the document states a longer billing cycle.
- 30.11 The Colorado Driver's License or Department of Revenue issued ID referred to in 1-2-217.5(1)(b)(I) and (II) or elsewhere in statute, where not specifically stated, must be current and valid.

- 30.12 Pursuant to 1-1-104(19.5)(a), if the ID that requires a photograph does not contain a photograph, it is not an acceptable ID for registration by mail or voting purposes.
- 30.13 Identification for Voting in Person
- 30.13.1 Voting in Person. (Including early voting, polling place voting).
- (a) The acceptable forms of ID for voting in person are listed in Rule 2.3(a).
  - (b) A Social Security Number (or last four digits) is NOT a legal form of ID for voting in person.
- Authority: 1-7-201 C.R.S.; 1-1-104(19.5) C.R.S.
- 30.13.2 When the elector shows ID pursuant to 1-1-104(19.5), the election judge shall check to ensure that the name matches, and that the address, if one is listed, is in the State of Colorado.
- 30.14 Identification for Voting by Mail
- 30.14.1 Voting By Mail (Including Absentee)
- (a) The acceptable forms of ID for voting by mail for first time voters are listed in Rule 2.3(a).
  - (b) A Social Security Number (or last four digits) is NOT a legal form of ID for voting by mail.
- 30.15 Identification presented by the elector when registering to vote by mail, or presented by the elector when returning the voted mail ballot or absentee ballot, is not required to be scanned or imaged into the permanent voter registration database, but shall be retained by the designated election official for a period of 25 months after the date of the election.
- 30.16 If a voter has been directed to return identification with his or her voted ballot, the election judge shall open the returned envelope to retrieve the required information. If the required information cannot be found in the return envelope, the election judge shall open the secrecy envelope/sleeve to find the required identification in an effort to not disenfranchise the voter.
- 30.17 If a tagged voter requests an absentee ballot, the local election official shall send such ballot with written instructions advising the voter of the requisite forms of identification needed to be provided with the absentee ballot. The local election official shall send the absentee ballot by the deadline set forth in 1-8-104(3) C.R.S. If an absentee ballot is returned without ID as defined in Rule 2.0, then the ballot shall be treated as a provisional ballot and verified pursuant to Rule 26.9.

**Rule 31. Rules Concerning Help America Vote Act, Title III: Administrative Complaint Procedures**

- 31.1 The HAVA Title III complaint may be received by the Secretary of State's office or the designated election official's office. The HAVA Complaint procedure shall be uniform and nondiscriminatory. The Complaint procedure shall conform to 1-1.5-105(2)(a) C.R.S. as follows:
- (a) A uniform and nondiscriminatory complaint procedure;
  - (b) Authorization for any person who has either been personally aggrieved by or has personally witnessed a violation of title III of HAVA that has occurred, is occurring, or that is about to occur, as applicable, to file a complaint;
  - (c) A description by the complainant in his or her complaint of the alleged violation with particularity and a reference to the section of HAVA alleged to have been violated;

- (d) A requirement that the complaint be filed no later than one year from the date of either the occurrence of the alleged violation or of the election giving rise to the complaint, whichever is later;
- (e) A requirement that each complaint be in writing and notarized, signed, and sworn by the person filing the complaint;
- (f) Authorization for the secretary to consolidate two or more complaints;
- (g) At the request of the complainant, a hearing on the record;
- (h) Authorization for the secretary to provide an appropriate remedy if the secretary determines that any provision of title III of HAVA has been violated or to dismiss the complaint and publish the results of his or her review if the secretary determines that no provision of title III of HAVA has been violated.
- (i) A final determination on the complaint by the secretary prior to the expiration of the ninety-day period that begins on the date the complaint is filed, unless the complainant consents to an extension of time for making such determination;
- (j) Resolution of the complaint within sixty days under an alternative dispute resolution procedure that the secretary shall establish in accordance with the requirements of this section if the secretary fails to satisfy the applicable deadline specified in 1-1.5-105(2)(i) C.R.S., and the availability of the record and any other materials from any proceedings conducted under the complaint procedures established for use under such alternative dispute resolution procedures;
- (k) Authorization for the secretary to conduct a preliminary review of any complaint submitted to him or her and to dismiss any complaint that he or she finds is not supported by credible evidence; and
- (l) Recovery by the secretary of the costs of the proceeding against any complainant who files a complaint that, in connection with the final determination by the secretary of the costs of the proceeding against any complainant who files a complaint that, in connection with the final determination by the secretary pursuant to 1-1.5-105(2)(i), is found on the basis of clear and convincing evidence to be frivolous, groundless, or vexatious.

31.2 The complaint must be in writing and may be submitted on a form designated by the Secretary of State or in a letter written by the complainant. The letter shall contain the following:

- (a) The complainant's name;
- (b) The complainant's full residence address, including county, and mailing address (if different from residence);
- (c) A description of the alleged violation with particularity and a reference to the section of Title III of HAVA alleged to have been violated;
- (d) A completed, notarized oath signed by the complainant where he or she states that the facts of the complaint are true and correct to the best of his or her knowledge and belief.

31.3 Whenever possible, any completed complaints mailed to the Secretary of State or the designated election official shall be sent in a unique, distinguishable envelope as

- approved by the Secretary of State. This unique envelope shall be given to the complainant at the same time as the complaint form and instructions.
- 31.4 Upon receipt of the HAVA complaint, the Secretary of State or designated election official shall note the date received and unique tracking number on the complaint form. The Secretary of State's office shall establish a unique tracking number for its use, and the designated election official shall use the Secretary of State's county ID number for that county, the last two digits of the present year, and a sequence number according to the amount of complaints already received by the county, placing hyphens between groupings of numbers. (For example, the first one received would be the two digit county number-last two digits of the year-03 with 01, 02, 03, etc. numbering any sequential complaints).
- 31.5 If the complaint is received by the Secretary of State's office, the unique tracking number shall be added to the form and the form shall be faxed to the designated election official in the county where the alleged violation occurred. The complainant shall receive a copy of the submitted complaint with all check-in notations and tracking numbers included.
- 31.6 If the complaint is received by the designated election official, the county tracking number shall be added to the form and the form shall be faxed to the Secretary of State's office within one business day. The complainant shall receive a copy of the submitted complaint with all check-in notations and tracking numbers included. The original complaint form shall be hand delivered or mailed to the Secretary of State's office, and a copy shall be retained by the designated election official.
- 31.7 Any original mailed complaints sent by the designated election official and received by the Secretary of State's office shall be sent in a unique, distinguishable mailing envelope as approved by the Secretary of State. This unique envelope will ensure that the complaint is easily recognizable and will be processed in a timely manner.
- 31.8 If the complaint is received by the designated election official and the original sent to the Secretary of State's office, the Secretary of State's office shall notify the designated election official, either by fax or letter, of the office's unique tracking number when the form is received at the Secretary of State's office. This official notification may be used for documentation purposes.
- 31.9 The designated election official shall not make any determination as to the validity of the alleged complaint during the submission process, but shall forward all information to the Secretary of State's office. The county may, however, begin researching the alleged violation on the local level once the complaint is received.
- 31.10 Any information gathered by the designated election official shall be documented with specific details, including the date, and shall be used for reference purposes.

**Rule 32. Rules Concerning Recall**

- 32.1 In any recall election of a partisan office, the successor nominee's party affiliation shall be listed with his or her name on the ballot.
- 32.2.1 For petitions to recall school district directors the petition must be signed by the eligible electors of the school district equal in number to at least 40% of the ballots cast in the district in the last preceding election at which the director to be recalled was elected as indicated by the pollbook or abstract for the election. See 1-12-105 C.R.S.
- 32.2 Petition sufficiency occurs when upon review, it is established that the petition contains the required number of valid signatures.
- 32.3 When a protest is filed, petition sufficiency is sustained upon conclusion of the protest

when the designated election official or the district judge maintains that there are sufficient valid signatures.

- 32.4 When an officer subject to being recalled resigns within the five days after the sufficiency of the recall petition has been sustained, the recall election does not go forward, and the position is declared vacant and filled according to statute.

**Rule 33. Rules Concerning Voters Who Vote After the Polls Close Pursuant to a Court Order**

- 33.1 Any individual who votes in an election for federal office as a result of a federal or state court order or any other order that is in effect 10 days before that election and which extends the time established for closing the polls by state law may only vote in that election by casting a provisional ballot pursuant to state law and the rules and regulations prescribed by the Secretary of State.

33.1.1 Any such provisional ballot cast under this rule shall be separated and held apart from other provisional ballots cast by those voters not affected by the court order.

**Rule 34. Rules Concerning the Adoption of Accessible Voting Systems under The Help America Vote Act of 2002.**

- 34.1 The requirements of §301(a)(3) of The Help America Vote Act of 2002 ("HAVA") to implement voting systems that: (1) are accessible for individuals with disabilities, including nonvisual accessibility for the blind and visually impaired, in a manner that provides the same opportunity for access and participation (including privacy and independence) as for other voters and (2) provide alternative language accessibility pursuant to the requirements of section 203 of the Voting Rights Act of 1965 (42 U.S.C. 1973aa-1a) are triggered when a political subdivision acquires a new voting system by lease or purchase using HAVA §301(a)(3) funds after January 1, 2003.
- 34.2 No political subdivision shall purchase or lease direct recording electronic (DRE) voting systems or other voting systems equipped for individuals with disabilities at each polling place unless such voting system(s) are fully certified pursuant to standards and guidelines recommended by the National Institute of Standards and Testing (NIST) and adopted by the U.S. Election Assistance Commission (EAC).
- 34.3 The Secretary of State, as custodian of §301(a)(3) of HAVA funds, will not distribute such funds to any political subdivision to pay for accessible voting systems that have not been fully certified by the EAC and the Secretary of State.
- 34.4 Only the acquisition of a new voting system (or substantial modification of an existing voting system) that will change voters' interaction with the ballot at the polling sites triggers §301(a)(3) of HAVA.
- 34.5 If a political subdivision acquires a new voting system, the system must be accessible to persons with physical, cultural/educational, mental/cognitive disabilities and provide the voter in a manner that provides the same opportunity for access and participation (including privacy and independence) as for other voters.
- 34.6 The Help America Vote Act requires that a newly acquired voting system be placed in every early voting and Election Day polling site by January 1, 2006.

**Rule 35. Rules Concerning Requirements for Voting System Accessibility**

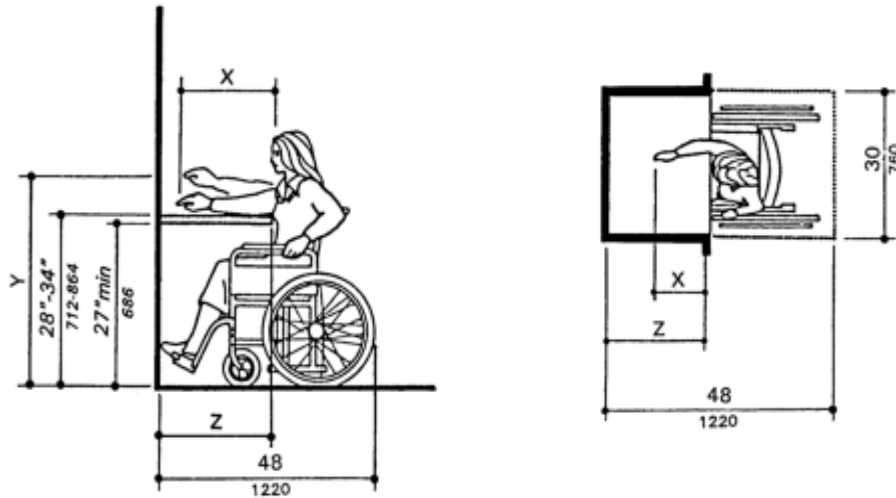
- 35.1 A voting system shall be accessible to voters with physical disabilities including no vision, low vision (visual acuity between 20/70 and 20/200, and/or 30 degree or greater visual-field loss), no hearing, low hearing, limited manual dexterity, limited reach, limited strength, no mobility, low mobility, or any combination of the foregoing by

providing voters with physical disabilities with a practical and effective means to cast an independent and secret ballot in accordance with each of the following, assessed independently and collectively:

- 35.1.1 The voting system shall provide a tactile-input or speech-input device, or both; and
- 35.1.2 The voting system shall provide a method by which voters can confirm any tactile or audio input by having the capability of audio output using synthetic or recorded human speech, which is reasonably phonetically accurate; and
- 35.1.3 The voting system shall provide a means for a voter to change the voter's selection prior to the voter casting the ballot; and
- 35.1.4 Any operable controls on the input device that are needed for voters without vision shall be discernable tactilely without actuating the keys. As a result, all the buttons on the device do not have to be discernable tactilely, only those buttons that are actually required for the individual to use the "operation without vision" mode; and
- 35.1.5 Any audio and non-audio access approaches shall be able to work both separately and simultaneously; and
- 35.1.6 If a non-audio access approach is provided, the system shall not require color perception; the system shall use black text or graphics, or both, on white background or white text or graphics, or both, on black background, unless the office of the Secretary of State approves other high-contrast color combinations that do not require color perception; and
- 35.1.7 Any voting system that requires any visual perception shall offer the election official who programs the system, prior to its being sent to the polling place, the capability to set the font size to a level that can be read by voters with low vision. While there is no standard font size for this situation, a san-serif font of 18 points as printed on a standard 8.5" x 11" piece of paper will allow the most universal access; and
- 35.1.8 The voting system shall provide audio information, including any audio output using synthetic or recorded human speech or any auditory feedback tones that are important for the use of the audio approach, through at least one mode (e.g., by handset or headset) in enhanced auditory fashion (i.e., increased amplification), and shall provide incremental volume control with output amplification up to a level of at least 97 decibels Sound Pressure Level ("dB SPL"), with at least one intermediate step of 89 dB SPL; and
- 35.1.9 For transmitted voice signals, the voting system shall provide a gain adjustable up to a minimum of 20 decibels ("dB") with at least one intermediate step of 12 dB of gain; and
- 35.1.10 For the safety of others, if the voting system has the possibility of exceeding 120 dB SPL, then a mechanism shall be included to reset the volume automatically to a safe level after every use (e.g., when handset is replaced) but not before; and
- 35.1.11 If sound cues and audible information, such as "beeps" are used, there shall be simultaneous corresponding visual cues and information; and
- 35.1.12 If a non-audio approach is used in conjunction with an audio counterpart, any spoken text shall also be presented on screen. A graphic representation of a ballot with a check, "X," etc. beside a candidate or proposition is allowed; and
- 35.1.13 All controls and operable mechanisms shall be operable with one hand, including with a closed fist, and operable without tight grasping, pinching, or twisting of the wrist; and
- 35.1.14 The force required to operate or activate the controls shall be no greater than 5 pounds per square foot ("lb./sq.ft."); and
- 35.1.15 If a forward approach by a person in a wheelchair to a voting system is necessary, the maximum high-forward reach allowed shall be 48 inches (1220 mm) and the minimum

low-forward reach shall be 15 inches (380 mm). If the high-forward reach is over an obstruction, reach and clearances shall be as shown in the Figure 1., or otherwise in accordance with the Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities (“ADAAG”), as written at the time the system is certified for use in the state of Colorado; and

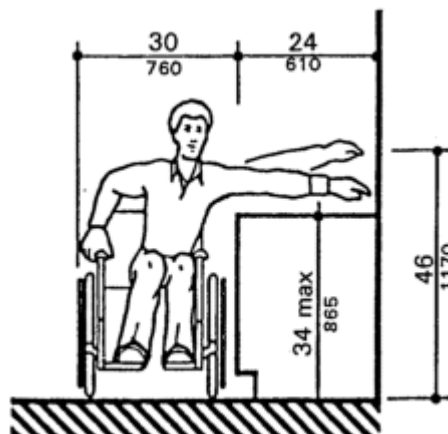
**Figure 1.**



NOTE: x shall be  $\leq 25$  in(635 mm); z shall be  $\geq x$ . When  $x < 20$  in(510 mm), then y shall be 48 in(1220 mm) maximum. When x is 20 to 25 in(510 to 635 mm), then y shall be 44 in(1120 mm) maximum.

35.1.16 If a side or parallel approach by a person in a wheelchair to a voting system is necessary, the maximum side reach allowed shall be 54 inches (1370 mm) and the low side reach shall be no less than 9 inches (230 mm) above the floor. If the side reach is over an obstruction, reach and clearances shall be as shown in the Figure 2., or otherwise in accordance with the ADAAG, as written at the time the system is certified for use in the state of Colorado; and

**Figure 2.**



35.1.17 The highest operable part of controls, dispensers, receptacles, and other operable equipment shall be placed within at least one of the reach ranges outlined in paragraphs (15) and (16) of this subsection.

**Rule 36. Rules Concerning Notice of Voting System Malfunction Required; Submission of Explanatory Report by Vendor Required Upon Request of Secretary of State**

- 36.1 A vendor (or the political subdivision, if no private vendor supports their system) must give notice to the Secretary of State within 24 hours of a malfunction of its voting/election system (including, but not limited to, software, firmware, hardware, or other equipment) in preparation for and on an election held in this state. The notice may be verbal, but must also be in writing.
- 36.2 Following the notice, the Secretary of State shall determine whether further information on the malfunction is required. At the request of the Secretary of State, a vendor (or the political subdivision, if no private vendor supports their system) must submit a report to the Secretary of State's office detailing the reprogramming (or any other actions) necessary to correct a voting system malfunction in preparation for and on an election held using the vendor's system. The report shall address whether permanent changes are necessary to prevent similar malfunctions in the future. If the malfunction requires a programming or election setup change to the database or other parts of the voting system, the designated election official shall submit an updated electronic copy of the election system database to the Secretary of State's office as set forth in Rule 11.
- 36.3 The report shall be submitted within 30 days after the date of the request by the Secretary of State. Notwithstanding the foregoing, if an election is scheduled within 60 days of the date of request by the Secretary of State, the Secretary of State may set an emergency deadline for filing the report. The request may be verbal, but must also be in writing.
- 36.4 Failure to submit a report within the required period shall be grounds to decertify the system.
- 36.5 The political subdivision holding the election in which the voting system malfunction occurred may submit the report in lieu of a report from the system's vendor.
- 36.6 A copy of this report will be attached to the system's most recent certification on file in the Secretary of State's office.
- 36.7 The Secretary of State's office will distribute a copy of this report to all counties using the voting system in question.

**Rule 37. The Acquisition, Purchase or Lease of Voting Systems.**

- 37.1 Declaration of Intent.
  - 37.1.1 The federal Help America Vote Act of 2002 ("HAVA") established uniform voting systems standards used in elections. The following rules seek to conform Colorado requirements to federal HAVA requirements pertaining to voting systems.
  - 37.1.2 Voting systems (including optical scanning voting systems or direct recording electronic systems) certified by the secretary of state and acquired, purchased or leased by counties pursuant to state law shall:
    - (a) permit the voter to verify (in a private and independent manner) the votes selected by the voter on the ballot before the ballot is cast and counted;
    - (b) provide the voter with the opportunity (in a private and independent



- manner) to change the ballot or correct any error before the ballot is cast and counted (including the opportunity to correct the error through the issuance of a replacement ballot if the voter was otherwise unable to change the ballot or correct any error); and
- (c) if the voter selects votes for more than one candidate for a single office:
    - (i) notify the voter that the voter has selected more than 1 candidate for a single office on the ballot;
    - (ii) notify the voter before the ballot is cast and counted of the effect of casting multiple votes for the office; and
    - (iii) provide the voter with the opportunity to correct the ballot before the ballot is cast and counted.
  - (d) Ensure that any notification required under this paragraph preserves the privacy of the vote and the confidentiality of the ballot.
- 37.1.3 Counties of the State of Colorado that use a paper ballot voting system or a central count voting system (including mail-in absentee ballots and mail-in ballots), may meet the requirements of this rule by:
- (a) establishing a voter education program specific to that voting system that notifies each voter of the effect of casting multiple votes for an office; and
  - (b) providing the voter with instructions on how to correct the ballot before it is cast and counted (including instructions on how to correct the error through the issuance of a replacement ballot if the voter was otherwise unable to change the ballot or correct any errors).
- 37.1.4 The voting systems described in the foregoing paragraphs shall produce a record with an audit capacity for such system.
- (a) The voting system shall produce a permanent paper record with a manual audit capacity for such system.
  - (b) The voting system shall provide the voter with an opportunity to change the ballot or correct any error before the permanent paper record is produced.
  - (c) The paper record produced under subparagraph (a) shall be available as an official record for any recount conducted with respect to any election in which the system is used.
  - (d) The paper record shall be accessible for individuals with disabilities including nonvisual accessibility for the blind and visually impaired, in a manner that provides the same opportunity for access and participation (including privacy and independence) as for other voters.
- 37.1.5 The voting system shall:
- (a) be accessible for individuals with disabilities, including nonvisual accessibility for the blind and visually impaired, in a manner that provides the same opportunity for access and participation (including privacy and independence) as for other voters;
  - (b) satisfy the requirements of paragraph 37.1.5(a) through the use of at least one direct recording electronic voting system or other voting system equipped for individuals with disabilities at each polling place; and
  - (c) shall be installed in each polling place in the state by January 1, 2006.
- 37.1.6 The voting system shall provide alternative language accessibility pursuant to the

- requirements of section 203 of the Voting Rights Act of 1965.
- 37.2 Prohibition of lease, purchase, or acquisition of voting systems pending action by the Election Assistance Commission (EAC) and certification through the Secretary of State..
- 37.2.1 No voting system may be leased, purchased, or acquired by any county or political subdivision of this state until the EAC and the Secretary of State have promulgated voting systems standards that address these concerns. This rule shall not apply to voting systems that have been certified by the Secretary of State and purchased by the political subdivisions pursuant to state law prior to the effective date of this rule.
- 37.3 Adoption of April 30, 2002 Voting Systems Standards promulgated by the Federal Election Commission for voting systems.
- 37.3.1 The Secretary of State hereby adopts the April 30, 2002 Voting Systems Standards promulgated by the Federal Election Commission for voting systems. Therefore, all voting systems, including, but not limited to, optical scan voting systems, direct record electronic voting systems, and touch screens, purchased by the political subdivisions of the State of Colorado are required to meet the qualifications of the Voting Systems Standards promulgated by the Federal Election Commission on April 30, 2002 and be certified by an independent testing authority certified by the National Association of Election Directors until such time, and subsequently thereto, at each time, as the Election Assistance Commission promulgates new Voting Systems Standards.
- 37.3.2 Upon any revision or new release of Voting Systems Standards by the Election Assistance Commission, the Secretary of State hereby automatically adopts such standards as may be promulgated, and any vendor seeking state certification shall follow such adopted voting systems standards and the processes mandated by state law in order to be certified by the Secretary of State.
- 37.4 The Secretary of State requires all voting systems and all individual parts of voting systems to pass certification criteria as outlined in the State of Colorado Voting Systems Certification Program. The designated election official shall retain records of all certification procedures pertaining to voting systems and parts of voting systems.

**Rule 38. Minimum Security Procedures for Transmission of Election Records by Secure, Dedicated Teleprocessing Lines Employed by Vote Centers. See 1-5-102.7 C.R.S.**

- 38.1 Definitions.
- 38.1.1 “Vote Center” means a polling place at which any registered elector in the political subdivision holding the election may vote, regardless of the precinct in which the elector resides.
- 38.1.2 “Teleprocessing Lines” means secure, dedicated communication transmission facilities used for the purpose of transferring Elector Data between Vote Centers and a centralized computerized pollbook maintained by the county clerk and recorder, to ensure the security and integrity of voting information so that no deviation can go undetected.
- 38.1.3 “Elector Data” means voting information, including but not limited to, voter registration, voting history, and voting tabulations.
- 38.1.4 “Electronic Pollbook” is a list of eligible electors in electronic format who are permitted to vote at a polling place in an election conducted under the Election Code, which shall be processed by a computer at a Vote Center to be immediately

- accessible to all other computers at all Vote Centers in the county.
- 38.2 This Rule applies to each designated election official who transmits election records via Teleprocessing Lines to a centralized Electronic Pollbook maintained by the county clerk and recorder for the purpose of running an election and compiling complete returns.
- 38.3 The designated election official shall establish written minimum security procedures covering the transference of Vote Center teleprocessing information. Such procedures shall include security covering the transmission of Elector Data processed through the Electronic Pollbook and reconciliation of the registration and history of voters casting ballots at a Vote Center.
- 38.4 Such procedures shall be submitted in writing to the Secretary of State and received by that Office for approval no later than sixty (60) days before the election date. The Secretary of State shall either approve the procedures submitted or notify the designated election official of recommended changes.
- 38.5 If the Secretary of State rejects or approves the written procedures, the Secretary of State shall provide written notice of such rejection/approval, including specifics of non-compliance with this Rule, within fifteen (15) days of receiving the written procedures.
- 38.6 The designated election official shall submit a revised procedure within fifteen (15) days thereafter.
- 38.7 The Secretary of State shall permit the filing of the revised procedures at a later date if it is determined that compliance with the fifteen day requirement is impossible.
- 38.8 All reconciliations must be accomplished prior to canvassing board certification of final results and shall be certified by the canvassing board. The certification of reconciliation shall be filed with the Secretary of State at the time the canvassing board certification of official election results is filed.
- 38.9 Where the Elector Data is transmitted via Teleprocessing Lines for the purpose of combining with other such tabulations to produce complete returns, the designated election official shall establish procedures to reconcile received transmitted tabulations so that no deviation can go undetected.
- 38.10 Prior to January 1, 2006, election judges shall make one certificate for each Vote Center in the form required by 1-7-601 C.R.S.
- 38.11 Certificate of Reconciliation
- (a) In addition to the statutory form required by 1-7-601 C.R.S., the election judges for each Voter Center shall submit a certification of reconciliation in substantially the following form:
- During the \_\_\_\_ Election held in \_\_\_\_\_ County on \_\_\_\_\_ 20\_\_\_\_, Elector Data was transmitted using dedicated Teleprocessing Lines. The canvassing board hereby certifies that the reconciliation procedures required by Rule 38.8, Minimum Security Procedures for Transmission of Election Records by Dedicated Teleprocessing Lines in Vote Centers has been complied with.
- (b) The Certification of Reconciliation must be signed and dated by the designated election official.
- 38.12 After January 1, 2006, reconciliation shall consist of race-by-race comparison by precinct of the received tabulation to a tabulation report produced from the original tabulations sent from the precinct to those received at the Vote Center. All tabulation reconciliations must be accomplished prior to canvassing board certification of final results and shall be

certified by the canvassing board. This certification of reconciliation shall be filed with the Secretary of State at the time of the canvassing board certification of official election results is filed.

**Rule 39. Cancellation of Felons' Voter Registrations**

39.1 Upon being provided information concerning felony convictions and pursuant to C.R.S. 1-2-302(3.5)(b), the Secretary of State shall direct the cancellation of the registration of persons convicted of a felony who are serving a sentence of confinement or detention or are on parole.

39.1.1 This rule does not pertain to a felon serving a period of probation.

39.2 The Secretary of State shall compare the felony conviction data with the Secretary of State's voter registration database to match voter registration information with the individuals listed using the following criteria:

(1) The last name and first name of each individual,

(2) The date of birth,

(3) The social security number or last four digits (if provided).

39.2.1 Any confirmed match of the last name and first name of the individual and either the date of birth or the social security number, or at least the last four digits, will be considered adequate cancellation criteria.

39.2.2 The county clerk and recorder shall send written notice to all individuals cancelled pursuant to this rule advising the individual that his or her voter registration has been cancelled. The felon notification of cancellation letter shall be in a format approved by the Secretary of State, and shall be mailed to the last known mailing address as shown on the clerk and recorder's records.

39.3 For any confirmed matches of convicted felons found pursuant to Rule 39.2, such matches shall be provided to the county clerk and recorder of the county of residence of the individual as recorded in the Secretary of State voter registration database to be cancelled pursuant to 1-2-302(3.5)(b) and 1-2-103(4) C.R.S.

39.4 Each county clerk shall solicit a listing of individuals convicted of a felony from the county sheriff of their respective counties.

39.4.1 Such lists shall be obtained at least once a month throughout the year. During any month in which an election occurs, such lists shall be obtained up to and including the day prior to the election.

39.4.2 The registrations of confirmed matches of individuals on the lists furnished by the county sheriffs shall be cancelled under the criteria set forth in Rule 39.2.

**Rule 40. Rules Concerning Certification and Education of Designated Election Officials**

40.1 Purpose:

40.1.1 The purpose of the certification program is to recognize that the overseeing of elections is a profession requiring a thorough knowledge of state and federal election law and election procedures. It is recognized that state and federal law, voting equipment and election procedures are increasingly more complex and necessitate extensive training. It is also recognized that Colorado aims to standardize election procedures and education. The ultimate purpose of Rule 40 is to assure that Colorado voters have a greater confidence in their election officials and the election process.

40.2 Advisory Board created

40.2.1 The Secretary of State shall create an advisory board to oversee the certification

program and curriculum. The board shall meet at least twice each calendar year to approve the curriculum and make necessary changes. It shall also review evaluations and recommend changes to the certification program.

40.2.2 The advisory board shall review individual applications for certification and approve applications that are accurate and complete. The advisory board has the authority to take into account special circumstances regarding certification and approved curriculum.

40.2.3 The advisory board shall include the following members appointed by the Secretary of State:

- (a) Four county clerks or designated staff members
- (b) Two Secretary of State office representatives
- (c) Any individual whom the Secretary of State believes could make a valuable contribution to the Board.

40.2.4 Board members shall be appointed by the Secretary of State to serve a two-year term. Board members may be terminated without cause. Failure to attend meetings or meaningfully contribute may result in termination.

#### 40.3 Core Curriculum

40.3.1 The certification program shall include core requirements. All training outlined herein shall be provided under the direction of the Secretary of State. Persons completing the certification shall complete at least eight core classes. The core classes shall generally include but are not limited to:

- (a) The basic conduct of elections
- (b) Testing and maintenance of voting equipment
- (c) Canvass procedures
- (d) Absentee and provisional voting
- (e) Pollworker training and recruiting
- (f) SCORE training
- (g) Ethics
- (h) Accessibility for people with disabilities

40.3.2 The classes may be offered as a whole or in sections.

#### 40.4 Elective Curriculum

The certification program shall include electives as part of the certification program. All training outlined herein shall be provided under the direction of the Secretary of State. Persons shall select and complete at least six (6) elective courses. The elective courses shall generally include:

- (a) Voter Outreach
- (b) Media Relations
- (c) Elections refresher course
- (d) Petitions
- (e) Overseas and military voters
- (f) Campaign finance
- (g) Security planning
- (h) Issues in voter registration
- (i) Polling place set up/management
- (j) Vote Center training
- (k) Mail ballot training

- (l) Budgeting
  - (m) Recounts and election contests
  - (n) Other timely, relevant topics as determined by the Secretary of State
- 40.5 Credit for Other Trainings. Persons may apply to the advisory board to request credit towards Colorado certification for training provided by other national elections organizations. The Board may grant core or elective hours for such trainings.
- 40.6 Continuing Elections Education (CEE). In order to maintain certification, a person shall attend and complete at least two electives or one core class every calendar year.
- 40.7 Completing Colorado certification
  - 40.7.1 After a person has completed the core requirements and elective requirements, the person shall submit an application for Colorado certification to the Secretary of State's office.
  - 40.7.2 The Secretary of State shall create an application form to be used by applicants for certification following completion of coursework. The applicants shall provide the following information:
    - (a) the applicant's name, name of county jurisdiction, address, telephone and e-mail;
    - (b) the applicant title(s) and date(s) of the classes the applicant attended;
    - (c) the applicant's signature and date signed; and
    - (d) the supervisor's signature (if applicable)
  - 40.7.2.1 The form shall also include a section for Secretary of State office use only.
  - 40.7.3 The Secretary of State shall review the application with reference to the Secretary of State records. If the application is complete and accurate, the Secretary of State shall forward it to the advisory board for their approval. Upon approval by the advisory board, the Secretary of State shall issue a certificate that the person is a Certified Colorado Election Official.
  - 40.7.4 The Secretary of State shall track attendance at all classes and keep records of attendance, continuing education, and records of those individuals who are certified and individuals who are in the certification process.
- 40.8 De-certification
  - 40.8.1 The Secretary of State has the authority to de-certify any person who does not fulfill the continuing education requirements.
  - 40.8.2 If a certification lapses within 18 months, the person shall be required to make up the continuing education credits to maintain certification.
  - 40.8.3 If a certification lapses within a period greater than 18 months, the person shall be required to fulfill all the necessary certification requirements and re-apply for certification.
  - 40.8.4 The advisory board created shall have the authority to review all de-certifications and take into account any extenuating circumstances regarding re-certification.
- 40.9 Persons attending the May 2004 Secretary of State training shall receive the equivalent of three elective credits.
- 40.10 Credit for Teaching Classes
  - 40.10.1 A person who teaches a class as part of the certification shall receive the equivalent of two core credits, or three elective credits.
- 40.11 Intent of this rule

- 40.11.1 It is the intent of this rule that the Secretary of State and the advisory board develop regional trainings to make certification and education more accessible. It is the intent that the Secretary of State explore virtual and web-based training for use as part of the certification and education process.

## **Rule 41. Rules Concerning Canvassing**

### **41.1 Definitions**

- (a) “Canvass” shall mean the audit function of the election and the process of reconciling the number of ballots counted to the number of voters who voted. The canvass also includes the process of reconciling detailed ballot logs and Statement of Ballot Forms.
- (b) “Canvass workers” shall mean workers appointed or hired by the designated election official to assist in the preparation and conduct of the canvass.
- (c) “Statement of Ballot Forms” shall mean the form used at the polling location pursuant to 1-7-502(2) C.R.S and 1-7-601(2) C.R.S. that accounts for all ballots at that location. The form includes information required by this rule.

### **41.2 Detailed Ballot Log**

- 41.2.1 The designated election official shall keep a detailed log of all ballots. The designated election official shall begin the log as soon as ballots are ordered and received. The log shall include the polling location and/or precinct number(s), ballot style(s), and account for every ballot that is received and distributed. The detailed ballot log shall be reconciled at the conclusion of each workday.
- 41.2.2 The designated election official shall keep and reconcile daily logs of absentee, mail and early voting ballots.
- 41.2.3 The designated election official shall indicate in the detailed log the number of paper ballots that are sent to each polling location for use on election day.
- 41.2.4 All required logs may be kept either by electronic or manual means.

### **41.3 Election Day Tracking Process**

- 41.3.1 The designate election official shall supply each polling location with a Statement of Ballots Form. Combined precincts may use one form. The form shall include a place for the judges to account for the following information:
- (a) The name or number(s) of the precinct or vote center;
  - (b) The number of ballots provided to the polling location;
  - (c) The number of ballots cast;
  - (d) The number of unvoted ballots
  - (e) The number of damaged or spoiled ballots; and
  - (f) The number of voted provisional ballots.
- 41.3.2 The total number of voted ballots should be reconciled to the number of voters who voted.
- 41.3.3 The total number of voted ballots, spoiled or damaged ballots, provisional ballots and unvoted ballots should be reconciled to be the same as the number of total ballots received at the polling location before voting begins.
- 41.3.4 The designated election official shall ensure that the total of the number of people who signed the pollbook is reconciled to the total of the number of ballots cast.
- 41.3.5 If there is a discrepancy in the numbers on the Statement of Ballots form, the

- judge shall make written notation explaining why the numbers do not balance (for example, voter signed in but left the polling place without voting, etc.).
- 41.3.6 The judges shall return the completed Statement of Ballots form to the designated election official with the other precinct supplies and mail a duplicate copy pursuant to 1-7-505 C.R.S.
- 41.4 Designated Election Official's Disposition of Forms
- 41.4.1 The designated election official shall review the Statement of Ballots form and ensure that it is complete and correct.
- 41.4.2 If the designated election official or the canvass board discovers a problem with the Statement of Ballots form that cannot be easily resolved, he or she shall have the right to contact the election judges and ensure that the discrepancy is explained or corrected.
- 41.5 Procedures for the Day of the Canvass
- 41.5.1 In order for the canvass board established pursuant to 1-10-101 C.R.S. to perform its duties, pursuant to 1-10-101.5 C.R.S., the designated election official shall provide the following information:
- (a) The name of each candidate receiving votes, the office, and the total number of votes received;
  - (b) The number/letter of each ballot issue or question and the votes received;
  - (c) The number of voters who voted early;
  - (d) The number of absentee or mail ballots cast, including the number accepted and rejected;
  - (e) The number of provisional ballots counted.
- 41.5.2 The canvass board shall confirm that the number of ballots cast is less than or equal to the number of people who actually voted in each precinct or vote center.
- 41.5.3 The designated election official shall use a canvass form that is approved by the Secretary of State.
- 41.5.4 Any written documentation regarding official numbers shall be included as part of the canvass.
- 41.6 Official Abstract
- 41.6.1 The designated election official shall ensure that the number of active voters on election day pursuant to 1-10-105(5)(c) C.R.S. is the number used on the official abstract.
- 41.6.2 The official abstract shall be compiled on a format approved by the Secretary of State.
- 41.6.3 The official abstract shall include, by precinct/ballot style or vote center, where applicable:
- (a) The statement of votes counted by race and ballot question or issue;
  - (b) The total active registered electors in the precinct and the total for the jurisdiction holding the election;
  - (c) The total number of electors voting in each precinct, and the total for the jurisdiction holding the election;
  - (d) The number of voters who voted early;
  - (e) The number of emergency registrations;
  - (f) The number of absentee or mail ballots counted and the number rejected;
  - (g) The number of provisional ballots counted and the number rejected listed by each rejection code pursuant to Rule 26.5.4; and



- (h) The number of damaged and spoiled ballots.
- 41.7 the Abstract Shall be the Official, Permanent Record
  - 41.7.1 The designated election official shall keep all official canvass reports and forms as part of the official permanent election record.
- 41.8 Appointment of Canvass Workers
  - 41.8.1 The designated election official may utilize canvass workers to assist in the preparation and conduct of the canvass.
- 41.9 Voter History
  - 41.9.1 After the canvass process is completed, the designated election official shall give credit to each voter who votes absentee, by mail, at an early voting site, or at a polling location.
  - 41.9.2 If the voter history records do not match the number of voters who voted at that election, the designated election official shall ensure the following:
    - (a) Each voter was given credit for voting; and
    - (b) All pollbooks and signature cards are accounted for.
  - 41.9.3 All research concerning discrepancies shall be explained and documented.
- 41.10 Written Complaints. In accordance with 1-7-514(2)(b) C.R.S., the designated election official shall provide in canvass board materials any written complaint about a voting device submitted by a registered elector, and, if resolved, how it was resolved and if pending, a proposal for how the issue will be resolved.

**Rule 42. Rules Concerning Use of Facsimile for Administrative or Medical Emergency Outside of the UOCAVA Context.**

- 42.1 Pursuant to 1-8-115 C.R.S., the designated election official may use means of electronic transfer to provide an absentee ballot to the eligible elector for an administrative or medical emergency following the procedures outlined in 1-8-115 C.R.S. and this rule.
- 42.2 “Electronic Transfer” shall mean the use of facsimile and shall not include the use of e-mail under 1-8-115 C. R. S.
- 42.3 The absentee ballot shall not be returned via any electronic means.
- 42.4 Absentee ballots sent by facsimile transmission shall include all races, ballot issues, and questions on which the elector may vote. Counties are encouraged to work with their vendors to develop a ballot that is clearly legible to the elector to increase the readability of the ballot and to avoid possible misinterpretations of the elector’s intended choice because of poor transmission of the document.
- 42.5 Instructions faxed to the elector with the absentee ballot shall include the following information:
  - (a) The name of the elector;
  - (b) The recipient’s fax number;
  - (c) The total number of pages to be transmitted;
  - (d) The total number of ballot pages;
  - (e) The telephone number or e-mail address where the eligible elector may send questions regarding the faxed absentee ballot;
  - (f) A notice that the recipient shall not duplicate the ballot for any other voter;
  - (g) The absentee ballot shall be returned only by mail or hand delivered. a faxed ballot will not be accepted;
  - (h) Return address information for the designated election official and instructions to mark, “official ballot enclosed” on the elector’s return

- envelope;
  - (i) A notice that the ballot must be received by the designated election official by mail or hand delivered no later than 7:00 p.m. Mountain Standard Time on election day; and
  - (j) Instructions for returning the medical/administrative emergency form.
- 42.6 The transmission shall also include an absentee ballot self-affirmation pursuant to 1-8-114 (1) C. R. S.
- 42.7 The fax transmission log as well as any other fax record shall be part of the official election record.
- 42.7.1 A Fax Transmission log shall be maintained by the designated election official of each ballot sent to a voter by facsimile indicating:
  - (a) The name of the voter;
  - (b) The fax number to which the ballot was sent;
  - (c) The unique identification number of the faxed ballot;
  - (d) The date the ballot and instructions were faxed; and
  - (e) The initials of the designated election official's employee sending the fax.
- 42.8 The designated election official shall fax the blank ballot with the instructions to the fax number provided by the elector. If the transmission is unsuccessful, the designated election official shall attempt to fax at least two more times and make reasonable effort, if possible, to ensure the transmission was successful.
- 42.9 Upon receipt of the ballot, when the information from the signed affidavit has been verified, a bipartisan team of judges shall duplicate the ballot. Duplicating judges shall not reveal how the elector has cast his or her ballot.
- 42.10 Medical Emergency
  - 42.10.1 For purposes of 1-8-115(1)(a) C.R.S. "second degree" is defined as spouse, parents, children, brothers and sisters, grandparents, and grandchildren related by blood or marriage.
- 42.11 Administrative Emergency. If the designated election official is unable to provide an absentee ballot to an elector by any other means, the designated election official shall seek authority from the Secretary of State to provide an absentee ballot to the elector pursuant to 1-8-115(4) C.R.S. using fax transmission.
  - 42.11.1 This Rule 42.11 shall apply only to eligible electors who are properly registered and have timely filed for an absentee ballot application.
  - 42.11.2 The Secretary of State shall designate a point of contact for each election for Emergency Electronic Transfer Requests no later than twenty-one (21) days prior to an election. The Secretary of State shall notify the counties by e-mail who the designated point of contact shall be, and post the contact information for the designated point of contact on the Secretary of State's website.
  - 42.11.3 The designated election official shall submit the request in writing from the Secretary of State using the Emergency Electronic Transfer form. E-mail is the preferred method of communication. If possible, the designated election official shall attempt to consolidate requests to the Secretary of State.
  - 42.11.4 The form for requesting an emergency electronic transfer shall be posted on the Secretary of State's website. The form must contain the following information:
    - (a) Contact information, including name, address, phone number, fax number,

- and e-mail address for the designated election official or their designee;
  - (b) Date and time of request sent by designated election official;
  - (c) Confirmation e-mail to designated election official by Secretary of State upon receipt of request
  - (d) A suggested timeframe for the Secretary of State to respond;
  - (e) Justification as to why the ballot(s) need to be sent by fax, which includes the following required information:
    - (1) The elector's name;
    - (2) When the elector applied for the absentee ballot;
    - (3) The date when the designated election official sent the absentee ballot to the elector (if applicable);
    - (4) The date the elector contacted the designated election official with information regarding failure to receive the ballot;
    - (5) A suggested timeframe for the Secretary of State to respond;
    - (6) The quantity of ballots to be sent by fax; and
    - (7) Approval or disapproval by the Secretary of State; if denied, reason for the denial.
  - (f) Confirmation e-mail from the designated election official to Secretary of State upon receipt of approval or disapproval.
- 42.11.5 The Secretary of State shall respond in writing to the designated election official as soon as possible, but no later than eight (8) business hours after receipt of the request.
- 42.11.6 The Secretary of State shall have the ability to issue a blanket approval by electronic transfer.

**Rule 43. County Security Procedures**

- 43.1 Pursuant to 1-5-616(5) C.R.S., each county shall file with the Secretary of State security procedures that meet the minimum standards set forth in this rule.
- 43.2 The county shall file security procedures annually no later than sixty (60) days prior to the first election in which the procedures will be used.
- 43.3 If no changes have occurred since the last security procedures filed, the county shall file a statement to that effect.
- 43.4 Revisions to previously filed security procedures shall clearly state which part of the procedures previously filed have been revised.
- 43.5 Each designated election official may change the security procedures within sixty (60) days of an election as a result of an emergency situation or other unforeseen circumstance, and document any changes. The designated election official shall file any revisions with the Secretary of State within five (5) days of the change.
- 43.6 If, pursuant to 1-5-616(5)(b) C.R.S., the Secretary of State is unable to complete its review, the procedures or revisions shall be temporarily approved until such time as the review is completed. The secretary of state shall notify the county of temporary approval.
- 43.7 Security Procedures shall at a minimum include, if applicable:
  - 43.7.1 The physical security of election equipment, software and firmware, election materials, polling places and counting centers, and equipment storage locations, including but not limited to:
    - (a) Locking mechanisms and seals;

- (b) Individuals with Access to keys, door codes, vault combinations;
  - (c) Temperature control (if necessary);
  - (d) Security cameras or other surveillance;
  - (e) Equipment maintenance procedures (See rule 11);
  - (f) Transportation of equipment, ballot boxes, and ballots on election day;
  - (g) Emergency contingency plans for equipment and polling places;
  - (h) Any other procedures used to maintain physical security;
  - (i) Internal controls for the voting system including software and hardware access controls and password management; and
  - (j) Security Training for election judges.
- 43.8 The designated election official shall maintain a file containing all referenced forms, schedules, logs, and checklists. The Secretary of State has the authority to inspect the file.
- 43.9 Included in the security procedures filed with the secretary of state shall be a section entitled “contingency plan.” The contingency plan shall include:
- (a) Evacuation procedures for emergency situations including fire, bomb threat, civil unrest, and any other emergency situations identified by the designated election official;
  - (b) Back up plans for emergency situations including fire, severe weather, bomb threat, civil unrest, electrical blackout, equipment failure, and any other emergency situations identified by the designated election official;
  - (c) An emergency checklist for election judges; and
  - (d) A list of emergency contact numbers provided to election judges.
- 43.10 Computer room access shall be limited to authorized personnel only, and the delivery of ballots between the preparation room and computer room shall be performed by messengers or runners wearing distinguishing identification.

**Rule 44. Rules Regulating Voter Registration Drives**

44.1 Statement of Intent

44.1.1 In accordance with 1-2-701 C.R.S. *et seq.*, the organizer of a Voter Registration Drive (“VRD”) shall file a Statement of Intent with the Secretary of State to conduct a voter registration drive on a form prescribed by the Secretary of State. The Statement of Intent shall include the following information:

- (a) The name of the organization and the name of the parent organization, if applicable;
  - (b) The contact information for the organization
  - (c) The name of the agent is a Colorado resident and the contact information for that agent;
  - (d) A statement specifying the counties in which the VRD intends to operate;
  - (e) A notice that the voter registration drive number expires at the end of the calendar year; and
  - (f) A signature line requiring the organizer’s signature.
- 44.1.2 Any amendments to the Statement of Intent shall be filed in writing with the Secretary of State. Amendments may be made by fax, email, mail or in person.
- (a) Any amendments to the Statement of Intent concerning the county in which the VRD will conduct a drive shall be filed a minimum of three (3) business days prior to commencing voter registration activity in a given county.

- 44.1.3 The Secretary of State shall immediately attempt to verify the information provided in the Statement of Intent prior to issuing a number to the VRD organizer. The Secretary of State may deny a number to the voter registration drive organizer if the information provided on the Statement of Intent cannot be verified.
- 44.1.4 The last day for a VRD to file a Statement of Intent with the Secretary of State shall be thirty (30) days before the general election in a given calendar year.
- 44.2 Training
  - 44.2.1 The organizer of the VRD shall, before commencing the distribution or circulation of voter registration applications, complete a training provided by the Secretary of State.
  - 44.2.2 In addition to training for the organizer, the Secretary of State shall make available information for the organizer to train individual circulators. Organizers shall provide training to all circulators. Organizers shall obtain and maintain on file signed attestations from each circulator that he or she will adhere to all the requirements of the Secretary of State election rules and the Colorado Revised Statutes pertaining to elections, and that they are aware of the penalties associated with the mishandling of voter registration application forms. The organizers shall furnish the circulator attestations to the secretary of state upon request.
  - 44.2.3 The mandatory training provided by the Secretary of State shall include but not be limited to:
    - (a) The requirement to use the standard Voter Registration Application Form;
    - (b) Information on where to obtain the standard Voter Registration Application Form;
    - (c) Information on how to ensure that a Form is filled out completely; including which fields are optional and which are required, and how to fill out the receipt portion of the Form;
    - (d) Notice of statutory deadlines relating to Voter Registration Applications Forms and voter registration drives;
    - (e) The requirements for when and where the Voter Registration Applications Forms must be turned in;
    - (f) Penalties for violating statutory prohibitions including fraud, intimidation, mishandling forms, failing to turn in forms and other penalties relevant to voter registration drives;
    - (g) The handling and treatment of confidential information on the Voter Registration Application Forms; and
    - (h) Notice that circulators shall not be paid per voter registration application, but if compensated, shall be paid by the hour or day.
  - 43.2.4 After completing the training, the organizer shall sign an Acknowledgement that the training has been completed and that he or she has been duly informed of rules, laws and penalties relating to voter registration drives.
- 44.3 Number Assigned. After the organizer completes the required training, the Secretary of State shall assign a unique number to the VRD that meets the requirements of 1-2-701 C.R.S. and this Rule. After issuing a unique number to the voter registration drive, the Secretary of State shall:
  - (a) Advise the VRD organizer of the unique number;

- (b) Notify the county clerks within 24 hours of each registered voter registration drive registered with the Secretary of State; and
  - (c) Post the organization's name and contact person on the SOS website.
- 44.4 Voter Registration Drive Voter Application Forms
  - 44.4.1 The Secretary of State shall approve a Voter Registration Application Form to be used exclusively by the VRD that shall include a tear off receipt. All persons conducting a VRD shall use the official, approved Form.
  - 44.4.2 The Secretary of State and county clerks shall make available the official, approved Voter Registration Drive Application Forms to the VRD organizer. No other voter registration application form may be used by a VRD.
  - 44.4.3 The organizer shall be responsible for placing the VRD number on the application form and the receipt portion of the form.
  - 44.4.4 The person circulating the Voter Registration Application Forms shall ensure that the tear-off receipt on the Application is completed and given to the applicant. The person circulating the voter application forms shall advise the applicant that the receipt may be needed when he or she votes.
  - 44.4.5 The VRD organizer is not eligible to receive Voter Registration Application Forms until the organizer has completed training, signed the statement of intent, completed and signed the Acknowledgement, and been assigned a number.
  - 44.4.6 Any voter registration drive that provides a voter registration application on its website or a link to such voter registration form must direct the applicant to return the completed form directly to the county clerk and recorder of the applicant's legal residence. No voter registration drive may provide a voter registration form on its website or a link to such voter registration form which instructs or directs, in any way, the applicant to return the completed form to anyone or any group other than directly to the county clerk and recorder of the applicant's legal residence or, in the case of overseas electors or UOCAVA electors, the county clerk and recorder or the Secretary of State.

**Rule 45. Rules Concerning Voting System Standards for Certification**

45.1 Definitions

The following definitions apply to their use in this rule only, unless otherwise stated.

- 45.1.1 "Audio ballot" means a voter interface containing the list of all candidates, ballot issues, and ballot questions upon which an eligible elector is entitled to vote at an election and that provides the voter with audio stimuli and allows the voter to communicate intent to the voting system through vocalization or physical actions.
- 45.1.2 "Audit log" means a system-generated record, in printed format, providing a record of activities and events relevant to initialization of election software and hardware, identification of files containing election parameters, initialization of the tabulation process, processing of voted ballots, and termination of the tabulation process.
- 45.1.3 "Ballot image" or "Ballot image log" means a corresponding representation in electronic form of the marks or vote positions of a cast ballot that are captured by a direct recording electronic voting device.
- 45.1.4 "Ballot style assignment" means the creation of unique, specific ballots for an election by the election management system based on criteria keyed into the system for districts, precincts, and races to create combinations of possibilities of races for individual voters to choose based on their individual precincts.

- 45.1.5 “Communications devices” means devices that may be incorporated in or attached to components of the voting system for the purpose of transmitting tabulation data to another data processing system, printing system, or display device.
- 45.1.6 “DRE” means a direct recording electronic voting device. A DRE is a voting device that records votes by means of a ballot display provided with mechanical or electro-optical components that can be activated by the voter; that processes data by means of a computer program; and that records voting data and ballot images in memory components. It produces a tabulation of the voting data stored in a removable memory component and as printed copy. The device may also provide a means for transmitting individual ballots or vote totals to a central location for consolidating and reporting results from remote sites to the central location.
- 45.1.7 “EAC” means the United States Elections Assistance Commission.
- 45.1.8 “Election media” means any device including a cartridge, card, memory device, or hard drive used in a voting system for the purposes of programming ballot image data (ballot or card styles), recording voting results from electronic vote tabulating equipment, or any other data storage needs required by the voting system for a particular election function. The election management system typically delivers (downloads) ballot style information to the election media and receives (uploads) cast ballot information in the form of a summary of results and ballot images.
- 45.1.9 “Equipment” or “device” means a complete, inclusive term to represent all items submitted for certification by the voting system provider. This can include, but is not limited to any voting device, accessory to voting device, DRE, touch screen voting device, card programming device software, and hardware, as well as a complete end to end voting system solution.
- 45.1.10 “FEC” means the Federal Election Commission.
- 45.1.11 “ITA” means an independent test authority that provides engineering, testing, or evaluation services, and is certified by the National Association of State Election Directors (NASED) as qualified to conduct qualification testing on a voting system.
- 45.1.12 “NASED” means the National Association of State Election Directors.
- 45.1.13 “Remote site” means any physical location identified by a Designated Election Official as a location where the jurisdiction shall be conducting the casting of ballots for a given election. A remote site includes locations such as precinct polling places, vote centers, early voting, absentee ballot counting, etc.
- 45.2 Introduction
  - 45.2.1 Definition of voting system for certification purposes

The definition of a voting system for the purposes of this rule shall be as the term is defined in HAVA section 301(b). For Colorado purposes, no single component of a voting system, such as a precinct tabulation device, meets the definition of a voting system.

Sufficient components shall be assembled to create a configuration that shall allow the system as a whole to meet all the requirements described for a voting system in this rule.
  - 45.2.2 Authority
    - 45.2.2.1 Pursuant to Articles 5 and 7 of Title 1 C.R.S., the Secretary of State is expressly authorized to adopt this rule.

45.2.2.2 Certifications issued prior to this date shall be considered valid provided the voting system meets the requirements of HAVA section 301(a).

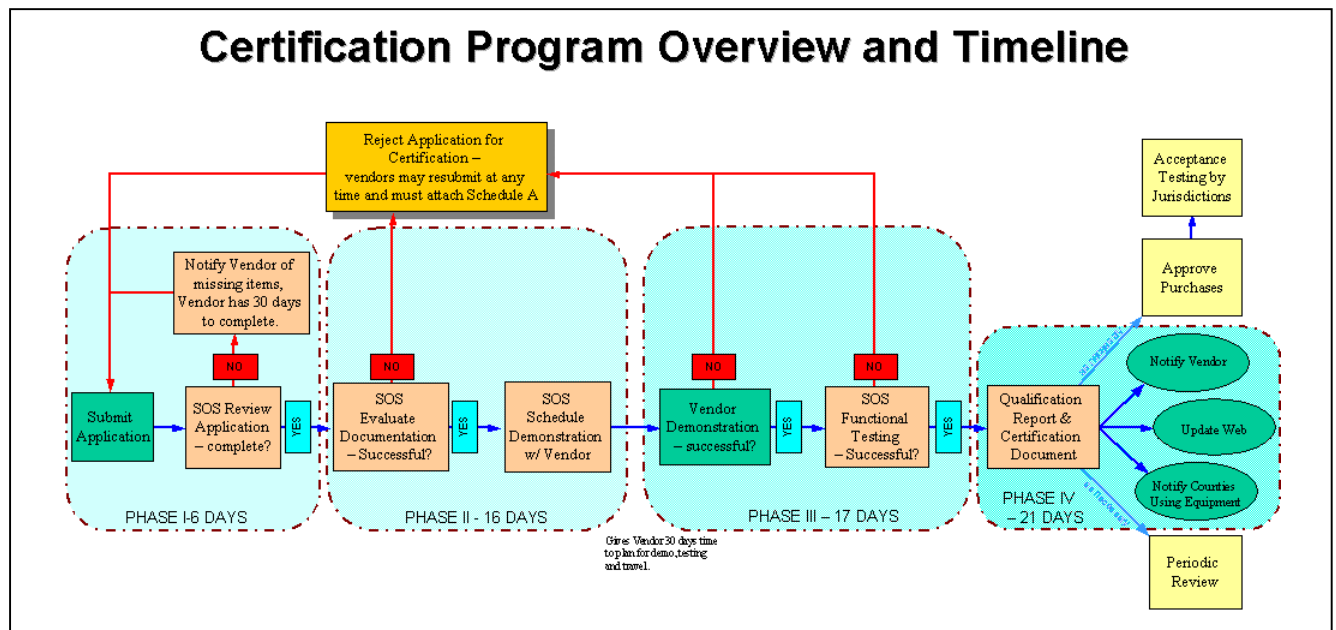
#### 45.3 Certification Process Overview and Timeline

45.3.1 The voting system shall be considered as a unit, and all components of such system shall be tested at once, unless the circumstances necessitate otherwise (e.g. retrofitted V-VPATs, etc.). Any change made to individual components of a voting system shall require re-certification of the voting system in accordance with this rule.

45.3.2 For a voting system to pass certification the voting system provider shall successfully complete all phases of the certification process that shall include: submitting a complete application, successful review of the documentation to evaluate if the system meets the requirements of this rule, successful demonstration of the system, followed by successful completion of items determined mandatory in the functional testing section of this rule.

45.3.3 The following milestones indicate the flow of the certification process – see timeline below:

- (a) Phase I – 6 days maximum. Voting system provider submits application and SOS reviews for completeness. Voting system provider shall have 30 days to remedy and make application complete.
- (b) Phase II – 16 Days maximum. SOS evaluates the documentation submitted and upon successful completion makes arrangement with voting system provider for demonstration.
- (c) Phase III – 17 days maximum. When demonstration is complete, SOS performs the functional testing.
- (d) Phase IV – 21 days maximum. Upon completion of functional testing, SOS produces a qualification report and applicable certification document.



#### 45.4 Application Procedure

45.4.1 Any voting system provider may apply to the SOS for certification at any time.

45.4.2 A voting system provider that submits a voting system for certification shall complete



- the SOS's "Application for Certification of Voting System".
- 45.4.3 Along with the application, the voting system provider shall submit all the documentation necessary for the identification of the full system configuration submitted for certification. This documentation shall include information that defines the voting system design, method of operation, and related resources. It shall also include a system overview and documentation of the voting system's functionality, accessibility, hardware, software, security, test and verification specifications, operations procedures, maintenance procedures, and personnel deployment and training requirements. In addition, the documentation submitted shall include the voting system provider's configuration management plan and quality assurance program.
  - 45.4.4 Where applicable, electronic copies of documentation are preferred and may be submitted in lieu of a hard copy.
  - 45.4.5 All materials submitted to the SOS shall become the property of the SOS upon submission.
  - 45.4.6 In addition to the application and the documentation specified above, the SOS may request additional information from the applicant, as deemed necessary by the SOS.
- 45.5 Voting System Standards
- 45.5.1 Federal Standards
    - 45.5.1.1 Pursuant to § 1-5-601.5 C.R.S. and Rule 37.3, any voting system and voting equipment offered for sale on or after May 28, 2004 shall meet the voting systems standards promulgated in 2002 by the FEC and that may hereafter be promulgated by the EAC.
    - 45.5.1.2 All voting system software, hardware, and firmware shall meet all requirements of Federal law that address accessibility for the voting system. These laws include, but are not necessarily limited to, (a) the Help America Vote Act, (b) the Americans with Disabilities Act, and (c) the Federal Rehabilitation Act. The voting system provider shall acknowledge explicitly that their proposed software, hardware, and firmware are all in compliance with the relevant accessibility portions of these laws.
  - 45.5.2 State Standards
    - 45.5.2.1 Functional requirements
      - 45.5.2.1.1 Functional requirements shall address any and all detailed operations of the voting system related to the management and controls required to successfully conduct an election on the voting system.
      - 45.5.2.1.2 The voting system shall exhibit an evolution toward new technologies and have the appearance of being voter and/or user friendly as defined in the EAC document "Improving the Usability and Accessibility of Voting Systems and Products."
      - 45.5.2.1.3 The Voting system shall have the functional capabilities to:
        - (a) Prepare the system for an election
        - (b) Setup and prepare ballots for an election
        - (c) Lock and unlock system to prevent or allow changes to ballot design
        - (d) Conduct hardware and diagnostics testing as required herein,
        - (e) Conduct logic and accuracy testing as required herein,
        - (f) Conduct an election and meet additional requirements as identified in this

section for procedures for voting, auditing information, inventory control, counting ballots, opening and closing polls, recounts, reporting, and accumulating results as required herein,

(g) Conduct the post election audit as required herein; and

(h) Preserve the system for future election use.

45.5.2.1.4 The voting system shall easily and accurately integrate election day voting results with absentee, early voting as well as provisional ballot results.

45.5.2.1.5 The voting system shall be able to count all of an elector's votes on a provisional ballot or only federal and statewide offices and statewide ballot issues and questions, as provided under § 1-8.5-108(2) C.R.S.

45.5.2.1.6 The voting system shall provide for the voting of multiple ballot styles for a single precinct and shall provide for the tabulation of votes cast in split precincts where all voters residing in one precinct are not voting the same ballot style.

45.5.2.1.7 The voting system shall provide for the tabulation of votes cast in combined precincts at remote sites, where more than one precinct is voting at the same location, on either the same ballot style or a different ballot style.

45.5.2.1.8 The voting system shall provide authorized users with the capability to produce electronic files in ASCII (both comma-delimited and fixed-width) format that shall contain (a) all data or (b) any user selected data elements from the database. The software shall provide authorized users with the ability to generate these files on an "on-demand" basis. After creating such files, the authorized users shall, at their discretion, have the capability to copy the files to diskette, tape, or CD-ROM or to transmit the files to another information system.

45.5.2.1.9 The voting system shall include hardware and software to enable the closing of the voting location and disabling acceptance of ballots on all vote tabulation devices to allow for the following:

(a) Machine-generated paper record of the time the voting system was closed.

(b) Readings of the public counter and/or protective counter shall become a part of the paper audit record upon disabling the voting system to prevent further voting.

(c) Ability to print an Abstract of the count of votes to contain:

- Names of the offices
- Names of the candidates and party when applicable
- A tabulation of votes from ballots of different political parties at the same voting location in a primary election
- Ballot titles
- Submission clauses of all initiated, referred or other ballot issues
- The number of votes counted for or against each candidate or ballot issue.

(d) Abstract shall include a Judge's certificate and statement that contains:

- Date of election (day, month and year)
- Precinct Number (ten digit format)
- County or Jurisdiction Name

- State of Colorado
  - Count of votes as indicated in this section
  - Area for judge's signature with the words similar to: "Certified by us", and "Election Judges". Space should allow for a minimum of two signatures.
- (e) Votes counted by a summary of the voting location, and by individual precincts.
- (f) Allow for multiple copies of the unofficial results at the close of the election.
- 45.5.2.1.10 Voters voting on DRE devices shall be able to navigate through the screens without the use of page scrolling. Features such as next or previous page options shall be used.
- 45.5.2.1.11 The system shall ensure that an election setup may not be changed once ballots are printed and/or device media is downloaded for votes to be conducted.
- 45.5.2.1.12 The system shall be able to receive programming information from the Statewide Voter Registration System in XML format.
- 45.5.2.1.13 The system shall be able to export election results in either a web based format, or a delimited file (text, CSV, etc.) for use in other applications.
- (a) Exports necessary for the SOS shall conform to XML format.
  - (b) Export files shall be generated so that election results can be communicated to the SOS.
- 45.5.2.2 Performance Level
- 45.5.2.2.1 Performance Level shall refer to any operation related to the speed and efficiency required from the voting system to accomplish the successful conduct of an election on the voting system.
- 45.5.2.2.2 The voting system shall meet the following minimum requirements for casting ballots:
- (a) Optical Scan Ballots at voting location(s) = 100 ballots per hour
  - (b) DRE / Touch Screen = 20 ballots per hour
  - (c) Central Count Optical Scan Ballots = 100 ballots per hour
- 45.5.2.2.3 For the purposes of evaluating software, the voting system provider shall be required to provide detailed information as to the type of hardware required to execute the software. The performance level shall be such that a user of the software would have minimal pauses in the system during the ballot design and creation, along with the downloading and uploading of election media devices. Specifically, the following minimum standards are required:
- (a) Ballot style assignment is less than 10 seconds per ballot style
  - (b) Election Media Download is less than 35 seconds per media
  - (c) Election Media Upload is less than 20 seconds per media
  - (d) View Ballot image (on screen) is less than 30 sec. per ballot image
- 45.5.2.2.4 At no time shall third party hardware or software impact performance levels, unless a voting system provider specifically details through documentation the specific hardware or software, the performance impact, and a workaround for the end user to overcome the issue.

#### 45.5.2.3 Physical and Design Characteristics

45.5.2.3.1 Physical and design characteristics shall address any and all external or internal construction of the physical environment of the voting system, or the internal workings of the software necessary for the functioning of the voting system to accomplish the successful conduct of an election on the voting system.

45.5.2.3.2 The physical design of the proposed system (non-software) shall be in a way such that it enhances or assists in the “voter friendly” aspect of voting, as well as meets the requirements indicated in section 4 of the “Usability and Accessibility of Voting Systems and Products” study conducted by NIST. (A copy of the document is located on the SOS web site.)

45.5.2.3.3 The voting system shall meet the following environmental controls allowing for storage and operation in the following physical ranges:

- Operating- Max. 100 Degrees Fahrenheit; Min. 40 Degrees Fahrenheit, with max. humidity of 90%, normal or minimum operating humidity of 15%.
- Non-Operating – Max. 130 Degrees Fahrenheit; Min. –15 Degrees Fahrenheit. Non-operating humidity ranges from 5% to 90% for various intervals throughout the day.

The material supplied by the voting system provider shall include a statement of all requirements and restrictions regarding environmental protection, electrical service, telecommunications service, and any other facility or resource required for the installation, operation, and storage of the voting system.

45.5.2.3.4 The ballot definition subsystem of the voting system consists of hardware and software required to accomplish the functions outlined in this section 45.5.2.3. System databases contained in the Ballot Definition Subsystem may be constructed individually or they may be integrated into one database. These databases are treated as separate databases to identify the necessary types of data that shall be handled and to specify, where appropriate, those attributes that can be measured or assessed for determining compliance with the requirements of this standard.

45.5.2.3.5 The Ballot Definition Subsystem shall be capable of formatting ballot styles in multiple languages, including English and Spanish. The subsystem shall be capable of being updated to format ballot styles in additional languages as necessary under state or federal law.

45.5.2.3.6 The voting system shall allow the user to generate and maintain an administrative database containing the definitions and descriptions of political subdivisions and offices within the jurisdiction.

45.5.2.3.7 The ballot definition subsystem shall provide for the definition of political and administrative subdivisions where the list of candidates or contests may vary within the remote site and for the activation or exclusion of any portion of the ballot upon which the entitlement of a voter to vote may vary by reason of place of residence or other such administrative or geographical criteria. This database shall be used by the system with the administrative database to format ballots or edit formatted ballots within the jurisdiction.

- 45.5.2.3.8 For each election, the subsystem shall allow the user to generate and maintain a candidate and contest database and provide for the production or definition of properly formatted ballots and software.
- 45.5.2.3.9 The environment in which all databases in the subsystem are maintained shall include all necessary provisions for security and access control. Any database may be generated and maintained in any file structure suitable to the requirements of the end user. It shall be the intent of the database hierarchy described herein to ensure that data entry, updating, and retrieval be effectively integrated and controlled.
- 45.5.2.3.10 The ballot definition subsystem shall be capable of handling at least 500 potentially active voting positions, arranged to identify party affiliations in a primary election, offices and their associated labels and instructions, candidate names and their associated labels and instructions, and issues or measures and their associated text and instructions.
- 45.5.2.3.11 The ballot display may consist of a matrix of rows or columns assigned to political parties or non-partisan candidates and columns or rows assigned to offices and contests. The display may consist of a contiguous matrix of the entire ballot or it may be segmented to present portions of the ballot in succession.
- 45.5.2.3.12 The voting system shall provide a facility for the definition of the ballot, including the definition of the number of allowable choices for each office and contest, and for special voting options such as write-in candidates. It shall provide for all voting options and specifications as provided for in Articles 5 and 7, Title 1, C.R.S. The system shall generate all required masters and distributed copies of the voting program in conformance with the definition of the ballot for each voting device and remote site. The distributed copies, resident or installed in each voting device, shall include all software modules required to: monitor system status and generate machine-level audit reports, accommodate device control functions performed by remote location officials and maintenance personnel, and register and accumulate votes.
- 45.5.2.3.13 All voting system software, installation programs, and third party software (such as operating systems, drivers, etc.) used to install or to be installed on voting system devices shall be distributed on a write-once media.
- 45.5.2.3.14 The voting system shall allow the system administrator to verify that the software installed is the certified software by comparing it to reference information.
- 45.5.2.3.15 All DRE voting devices shall use touch screen technology or other technology providing accurate visual ballot display and selection. The voting system provider shall include documentation concerning the use of touch screen or other display and selection technology, including but not limited to:
  - (a) Technical documentation describing the nature and sensitivity of the tactile device (if the system uses touch screen technology);
  - (b) Technical documentation describing the nature and sensitivity of any other technology used to display and select offices, candidates, or issues;
  - (c) Any mean time between failure (MTBF) data collected on the vote recording devices; and

- (d) Any available data on problems caused for persons who experience epileptic seizures due to the DRE voting devices' screen refresh rate.
- 45.5.2.3.16 The voting system shall contain a control subsystem that consists of the physical devices and software that accomplish and validate the following operations.
  - (a) Voting system Preparation - The control subsystem shall encompass the hardware and software required to prepare remote location voting devices and memory devices for election use. Remote site preparation includes all operations necessary to install ballot displays, software, and memory devices in each voting device. The control subsystem shall be designed in such a manner as to facilitate the automated validation of ballot and software installation and to detect errors arising from their incorrect selection or improper installation.
  - (b) Error Detection – the voting system shall contain a detailed list and description of the error messages that will appear on the voting devices, the controller (if any), the paper ballot printer, programmer, or any other device used in the voting process to indicate that a component has failed or is malfunctioning.
- 45.5.2.3.17 The voting system shall have a high level of integration between the ballot layout subsystem and the vote tabulation subsystem. This integration shall permit and facilitate the automatic transfer of all ballot setup information from the automated ballot layout module to the single ballot tabulation system that will be used in a fully integrated manner for DRE, optical scan, and any other voting devices included in the voting system.
- 45.5.2.3.18 The processing subsystem contains all mechanical, electromechanical, and electronic devices required to perform the logical and numerical functions of interpreting the electronic image of the voted ballot and assigning votes to the proper memory registers. Attributes of the processing subsystem that affect its suitability for use in a voting system, are accuracy, speed, reliability, and maintainability.
  - (a) Processing accuracy refers to the ability of the subsystem to receive electronic signals produced by vote marks and timing information, to perform logical and numerical operations upon these data, and to reproduce the contents of memory when required without error. Processing subsystem accuracy shall be measured as bit error rate, which is the ratio of uncorrected data bit errors to the number of total data bits processed when the system is operated at its nominal or design rate of processing in a time interval of four (4) hours. The bit error rate shall include all errors from any source in the processing subsystem. For all types of systems, the Maximum Acceptable Value (MAV) for this error rate shall be one (1) part in five hundred thousand (500,000) ballot positions, and the Nominal Specification Value (NSV) shall be one (1) part in ten million (10,000,000)-ballot positions.
  - (b) Memory devices that are used to retain control programs and data shall have demonstrated at least a ninety-nine and a half (99.5) percent

probability of error-free data retention for a period of six months for operation and non-operation.

- 45.5.2.3.19 The reporting subsystem contains all mechanical, electromechanical, and electronic devices required to print reports of the tabulation. The subsystem also may include data storage media and communications devices for transportation or transmission of data to other sites. Communications Devices shall not be used for the preparation or printing of an official canvass of the vote unless they conform to a data interchange and interface structure and protocol that incorporates some form of error checking and auditing process control.
  - 45.5.2.3.20 The approach to design shall be unrestricted, and it may incorporate any form or variant of technology that is capable of meeting the requirements of this rule, and other attributes specified herein. The frequency of voting system malfunctions and maintenance requirements shall be reduced to the lowest level consistent with cost constraints. Applicants are required to use MIL-STD-454; "Standard General Requirements for Electronic Equipment" that is hereby adopted and incorporated by reference, as a guide in the selection and application of materials and parts.
  - 45.5.2.3.21 The voting system and all associated components shall have a useful life of at least eight (8) years.
  - 45.5.2.3.22 The voting system provider shall submit drawings, photographs, and any related brochure documents to assist with the evaluation of the physical design of the use of the voting system.
- 45.5.2.4 Documentation Requirements
- 45.5.2.4.1 In addition to Section 45.3 above, the voting system provider shall provide the following documents:
    - Standard Issue Users/Operator Manual
    - System Administrator's Manual
    - Training Manual (and materials)
    - Systems Programming and Diagnostics Manuals
  - 45.5.2.4.2 All ITA qualification reports that are material to the determination that a voting system may be certified shall be evaluated to determine if the test procedures, records of testing, and reporting of results meet the requirements of this rule.
  - 45.5.2.4.3 Documentation submitted to the SOS shall be reviewed to ensure the voting system meets the 2002 FEC. The submitted documentation shall include methods for implementing future releases and versions of the future standards.
- 45.5.2.5 Audit capacity
- 45.5.2.5.1 The voting system shall be capable of producing paper audit logs ("Audits", "audit reports", or "audit records"), generated by the system components, or in some cases, by the system operators, from which all operations may be audited. Except for the storage of vote images that shall be maintained in a random sequence, the audit records shall be created and maintained in the sequence in which the operations were performed.
  - 45.5.2.5.2 The voting systems shall include detailed documentation as to the level,

location, and programming of audit trail information throughout the system.  
The Audit information shall apply to:

- (a) Operating Systems (workstation, server, and/or DRE)
- (b) Election Programming Software
- (c) Election Tabulation devices – optical scan and DRE

45.5.2.5.3 The system shall track and maintain audit information of the following events:

- (a) Log on and log off activity
- (b) Application start and stop
- (c) Printing activity (where applicable)
- (d) Election events – setup, set for election, unset for election, open polls, close polls, end election, upload devices, download devices, create ballots, create precincts, create districts, create poll places (or Vote Centers), and voting activity.
- (e) Hardware events – add hardware, remove hardware, and change hardware properties.

45.5.2.5.4 All tabulation devices shall display the unit serial number(s) both physically and within any applicable software or PROM/ROM devices.

45.5.2.5.5 If a vote tabulation device employs the use of removable memory storage devices, the devices shall allow for the transfer of audit records if the device and/or memory storage device is damaged or destroyed.

#### 45.5.2.6 Security Requirements

45.5.2.6.1 The voting system provider shall provide documentation detailing voting system security in the areas listed below. At no time shall a system allow for unauthorized changes to system capabilities for:

- (a) Defining ballot formats;
- (b) Casting and recording votes;
- (c) Calculating vote totals consistent with defined ballot formats;
- (d) Reporting vote totals;
- (e) Alteration of voting system audit records;
- (f) Changing, or preventing the recording of, a vote;
- (g) Introducing data for a vote not cast by a registered voter;
- (h) Changing calculated vote totals;
- (i) Preventing access to vote data, including individual votes and vote totals, to unauthorized individuals; and
- (j) Preventing access to voter identification data and data for votes cast by the voter such that an individual can determine the content of specific votes cast by the voter.

45.5.2.6.2 The voting system provider shall submit to the SOS its recommended policies or guidelines governing:

- (a) Software access controls;
- (b) Hardware access controls;
- (c) Data communications;
- (d) Effective password management;
- (e) Protection abilities of a particular operating system;
- (f) General characteristics of supervisory access privileges;



- (g) Segregation of duties; and
- (h) Any additional relevant characteristics
- 45.5.2.6.3 The voting system shall include detailed documentation as to the security measures it has in place for all systems, applicable software, devices that act as connectors (upload, download, and other programming devices), and any security measures the voting system provider recommends to the end users that purchase the voting system.
- 45.5.2.7 Telecommunications Requirements
  - 45.5.2.7.1 Telecommunications includes all components of the voting system that transmit data over public or private network communications. This includes wired, wireless, phone/modem, LAN, and WAN connections.
  - 45.5.2.7.2 All electronic transmissions across public networks shall be secured to the level and using the technologies prescribed in the State of Colorado's "Minimum IT Architecture Standards" as adopted by the of Information Management Commission at the time of certification. The voting system provider shall provide, documentation describing in detail the steps and methods used for those electronic transmissions. This documentation will describe, at a minimum, the methods by which authentication, confidentiality, integrity, and availability of the transmission and verification of electronically transmitted information will be performed.
  - 45.5.2.7.3 The voting system provider is required to provide to the SOS an affidavit of compliance with the State's "Minimum IT Architecture Standards" and is further required to indicate to the State any variance(s) between the vendor's systems and the State's standards within the documentation submitted for application of the voting system.
  - 45.5.2.7.4 Any system that incorporates wireless transmission shall include a detailed security plan specific to the wireless protocol being deployed with the voting system. The detailed plan shall include specific instructions for end users of the system to allow passwords and security keys to be set and/or generated by the end user.
  - 45.5.2.7.5 All systems that transmit data over public telecommunications networks shall maintain a clear audit trail that can be provided to the SOS when election results are transmitted by telephone, microwave or any other type of electronic communication.
  - 45.5.2.7.6 Systems designed for transmission of voter information (i.e. electronic pollbooks) over public networks shall meet security standards that address the security risks attendant with the casting of ballots at remote sites controlled by election officials using the voting system configured and installed by election officials and/or their voting system provider or contractor, and using in-person authentication of individual voters.
  - 45.5.2.7.7 Any voting system provider of systems that cast individual ballots over a public telecommunications network shall provide detailed descriptions of:
    - (a) All activities mandatory to ensuring effective system security to be performed in setting up the system for operation, including testing of security before an election.

- (b) All activities that should be prohibited during system setup and during the time frame for voting operations, including both the hours when polls are open and when polls are closed.

#### 45.5.2.8 Accessibility Requirements

45.5.2.8.1 Specific minimum accessibility requirements include those specified in section §1-5-704 C.R.S., SOS Rule 34, Rule 35 and the following:

- (a) Buttons and controls shall be distinguishable by both shape and color.
- (b) Audio ballots shall meet the following standards:
  - 1. The voting system shall allow the voter to pause and resume the audio presentation.
  - 2. The audio system shall allow voters to control within reasonable limits, the rate of speech.
- (c) No voting system or any of its accessible components shall require voter speech for its operation.

45.5.2.8.2 Documentation of the accessibility of the voting system shall include the following items at a minimum:

- (a) If appropriate, voting booth design features that provide for privacy for the voter while voting (if a voting booth is not included with the system, then describe how voter privacy is accomplished).
- (b) Adaptability of the proposed system for voters with disabilities as outlined in the Americans with Disabilities Act guidelines.
- (c) Technology used by the voting system that prevents headset/headphone interference with hearing aids.
- (d) Types and size of voice file(s) the voting system uses.
- (e) Method for recording, sharing and storing voice files in the voting system.
- (f) How paginating through viewable screens is accomplished if it is required with the voting system.
- (g) Various methods of voting to ensure access by persons with multiple disabilities. Voting systems shall include push buttons, keypad, “puff-sip” tube, touch screen, switches, and blink control devices.
- (h) Capabilities of the voting system to accurately accept a non-human touch as input on the touch screen.
- (i) User adjustability of color settings, screen contrasts, and screen angles/tilt if the system uses a display screen.

#### 45.5.2.9 Voter-Verifiable Paper Record Requirements(V-VPAT)

45.5.2.9.1 V-VPAT shall refer to a Voter-verified paper record as defined in § 1-1-104(50.6)(a) C.R.S.

45.5.2.9.2 Existing systems that are retrofitted to comply with this law shall be certified by the SOS. Any retrofitted voting system shall comply with the process and application for certification as identified by this rule.

45.5.2.9.3 The V-VPAT shall consist of the following minimum components:

- (a) The voting device shall contain a paper audit trail writer or printer that shall be attached, built into, or used in conjunction with the DRE. The printer shall duplicate a voter’s selections from the DRE onto a paper record.

- (b) The unit or device shall have a paper record display unit or area that shall allow a voter to view his or her paper record.
  - (c) The V-VPAT unit shall contain a paper record storage unit that shall store cast and spoiled paper record copies securely.
  - (d) These devices may be integrated as appropriate to their operation.
- 45.5.2.9.4 V-VPAT devices shall allow voters to verify his or her selections on a paper record prior to casting ballots. The voter shall either accept or reject the choices represented on the paper record. Both the electronic record and the paper record shall be stored and retained upon the completion of casting a ballot.
  - 45.5.2.9.5 The V-VPAT printer connection may be any standard, publicly documented printer port (or the equivalent) using a standard communication protocol.
  - 45.5.2.9.6 The printer shall not be permitted to communicate with any other device than the voting device to which it is connected.
  - 45.5.2.9.7 The printer shall only be able to function as a printer, and not perform any other services or possess network capability.
  - 45.5.2.9.8 Every electronic voting record shall have a corresponding paper record.
  - 45.5.2.9.9 The paper record shall be considered an official record of the election available for recounts, and shall be sturdy, clean, and of sufficient durability to be used for this purpose.
  - 45.5.2.9.10 The V-VPAT device shall be designed to allow every voter to review, and accept or reject his/her paper record in as private and independent manner as possible for both disabled and non-disabled voters.
  - 45.5.2.9.11 The V-VPAT system shall be designed in conjunction with State Law to ensure the secrecy of votes so that it is not possible to determine which voter cast which paper record.
  - 45.5.2.9.12 The V-VPAT printer shall print at a font size no less than ten (10) points for ease of readability. Any protective covering intended to be transparent shall be in such condition that it can be made transparent by ordinary cleaning of its exposed surface.
  - 45.5.2.9.13 The V-VPAT system shall be designed to allow each voter to verify his or her vote on a paper record in the same language they voted in on the DRE.
  - 45.5.2.9.14 The V-VPAT system shall be designed to prevent tampering with unique keys and/or seals for the compartment that stores the paper record, as well as meet the security requirements of this rule. Additional security measures may be in place on the printer to prevent tampering with the device.
  - 45.5.2.9.15 The V-VPAT system shall be capable of printing and storing paper record copies for at least 150 ballots cast without requiring the paper supply source, ink or toner supply, or any other similar consumable supply to be changed during the voting period, assuming a fully printed double sided eighteen (18) inch ballot.
  - 45.5.2.9.16 The V-VPAT unit shall provide a “low supply” warning to the election judge to add paper, ink, toner, ribbon or other like supplies. In the event that an election judge is required to change supplies during the process of voting, the voter shall be allowed to reprint and review the paper audit trail without having to re-mark his or her ballot, and the device shall prevent the election

- judge from seeing any voters' ballots.
- 45.5.2.9.17 The voting system provider shall provide procedures and documentation for the use of the V-VPAT device.
- 45.5.2.9.18 The printed information on the printed ballot or verification portion of the V-VPAT device shall contain at least the following items:
- (a) Name or header information of race, question or issue
  - (b) Voter's selections for the race information.
  - (c) Write-in candidate's names if selected.
  - (d) Undervote or overvote information – this is in addition to the information on the review screen of the DRE.
  - (e) Unique serial number (randomized to protect privacy)
  - (f) Identification that the ballot was cancelled or cast
- 45.5.2.9.19 The V-VPAT shall allow a voter to spoil his or her paper record no more than two (2) times. Upon spoiling, the voter shall be able to modify and verify selections on the DRE without having to reselect all of his or her choices.
- 45.5.2.9.20 Before the voter causes a third and final record to be printed, the voter shall be presented with a warning notice that the selections made on screen shall be final and the voter shall see and verify a printout of his or her vote, but shall not be given additional opportunities to change their vote.
- 45.5.2.9.21 All V-VPAT components shall be capable of integrating into existing state testing and auditing requirements of the voting system.
- 45.5.2.9.22 The V-VPAT component should print a barcode with each record that contains the human readable contents of the paper record and digital signature information. The voting system provider shall include documentation of the barcode type, protocol, and/or description of barcode and the method of reading the barcode as applicable to the voting system.
- 45.5.2.9.23 The V-VPAT component shall be designed such that a voter may not be able to leave the voting area with the paper record.
- 45.5.2.9.24 If used for provisional ballots, the V-VPAT system shall be able to count all of an elector's votes on a provisional ballot or only federal and statewide offices and statewide ballot issues and questions, as provided under § 1-8.5-108(2) C.R.S.
- 45.5.2.9.25 The SOS shall keep on file procedures submitted by the voting system provider for how to investigate and resolve malfunctions including, but not limited to: misreporting votes, unreadable paper records, paper jams, low-ink, misfeeds, preventing the V-VPAT from being a single point of failure, recovering votes in the case of malfunction and power failures.
- 45.6 Testing
- 45.6.1 Voting System Provider Demonstration
- 45.6.1.1 The voting system provider shall demonstrate the exact proposed voting system to the SOS or his or her designee prior to any functional testing. It should be expected that a minimum of 6 hours would be required of the voting system provider to demonstrate and assist with programming of the software as necessary.
- 45.6.1.2 The demonstration period does not have a pre-determined agenda for the voting system provider to follow, however, presentations should be prepared to address

and demonstrate with the specific system the following items as they pertain to each area and use within the voting system:

- (a) System overview
- (b) Verification of complete system matching EAC certification
- (c) Ballot definition creation
- (d) Import EML file from statewide voter registration system
- (e) Printing ballots on demand
- (f) Hardware diagnostics testing
- (g) Programming election media devices for various count methods:
  - Absentee
  - Early Voting
  - Precinct/Poll Place
  - Provisional
  - Vote Center
- (h) Sealing and securing system devices
- (i) Logic and accuracy testing
- (j) Processing ballots
- (k) Accessible use
- (l) Accumulating results
- (m) Post-election audit
- (n) Canvass process handling
- (o) Audit steps and procedures throughout all processes.
- (p) Certification of results (export EML to statewide voter registration system)
- (q) Troubleshooting.

45.6.1.3 The voting system provider shall have access to the demonstration room for one hour prior to the start of the demonstration to provide time for setup of the voting system.

45.6.1.4 A maximum of 3 business days – 24 hours total shall be allowed for the demonstration.

45.6.1.5 The demonstration shall be open to representatives of the press and the public to the extent allowable. The SOS may limit the number of representatives from each group to accommodate space limitations and other considerations.

45.6.1.6 The SOS shall post notice of the fact that the demonstration will take place in the designated public place for posting notices for at least seven (7) days before the demonstration. The notice shall indicate the general time frame during which the demonstration may take place and the manner in which members of the public may obtain specific information about the time and place of the test.

#### 45.6.2 Functional Testing

45.6.2.1 Voting system provider requirements for testing

45.6.2.1.1 The voting system provider shall submit for testing the specific system configuration that shall be offered to end users including the components the voting system provider recommends be used with the system.

45.6.2.1.2 The voting system provider is not required to be present for the functional testing, but shall provide a point of contact for support.

45.6.2.1.3 The voting system provider shall provide a copy of the version being certified

- of software, firmware, utilities, hardware and instructions to install, operate and test the system being submitted for certification.
- 45.6.2.1.4 The test shall be performed with test ballots and an election setup file, as determined by the SOS.
  - 45.6.2.1.5 Functional testing shall be completed within 17 days of the successful conclusion of the voting system provider demonstration.
- 45.6.2.2 SOS requirements for testing
- 45.6.2.2.1 The SOS or the designee shall conduct functional testing on the voting system based on this rule and additional testing procedures as determined by the SOS.
  - 45.6.2.2.2 The voting system shall receive a pass/fail for each test conducted.
  - 45.6.2.2.3 A log of the testing procedure shall be maintained and recorded on file with the SOS. This log shall identify the system and all components by voting system provider name, make, model, serial number, software version, firmware version, date tested, test number, test description, notes of test, and results of test. All test environment conditions shall be noted.
  - 45.6.2.2.4 All operating steps, the identity and quantity of simulated ballots, annotations of output reports, and observations of performance shall be recorded.
  - 45.6.2.2.5 In the event that a deviation to requirements pertaining to the test environment, voting system arrangement and method of operation, the specified test procedure, or the provision of test instrumentation and facilities is required, this deviation shall be recorded in the test log together with a discussion of the reason for the deviation and a statement of the effect of the deviation on the validity of the test procedure.
- 45.6.2.3 General Testing Procedures and Instructions
- 45.6.2.3.1 Certification tests shall be used to determine compliance with applicable performance standards for the system and its components. The general procedure for these tests shall:
    - (a) Verify, by means of applicant's standard operating procedure, that the device is in a normal condition and status.
    - (b) Establish the standard test environment or the special environment required to perform the test.
    - (c) Invoke all operating modes or conditions necessary to initiate or to establish the performance characteristic to be tested.
    - (d) Measure and record the value or the range of values of the performance characteristic to be tested.
    - (e) Verify all required measurements have been obtained, and that the device is still in a normal condition and status.
  - 45.6.2.3.2 All tests shall be conducted as described in this section 45.6.2.3 in regular election mode. At no point shall testing be conducted in any form of test mode.
  - 45.6.2.3.3 Each voting system shall be tested and examined by conducting two mock elections – a Presidential Primary and a Coordinated election.
  - 45.6.2.3.4 Each component of the voting system shall contain provisions for verifying it is functioning correctly and, whether operation of the component is dependent upon instructions specific to that election.

- 45.6.2.3.5 Both election scenarios shall feature at least 10 districts (or district types), comprised of at least 20 precincts that will result in a minimum of 5 unique ballot styles or combinations.
- 45.6.2.3.6 The voting system provider is required to produce a minimum of 500 ballots for each of the two elections. Enough ballots need to be created to conduct the testing of the voting system as defined in this rule. One complete set of ballots will be tested in each of the applicable counter types (or groups) indicated below:
- (a) Poll Place or Vote Center - ballots are flat – no score marks
  - (b) Early Voting – ballots are flat – no score marks
  - (c) Absentee – ballots are scored and folded to fit in standard Colorado Absentee Mailing Envelopes.
  - (d) Provisional – ballots are flat- no score marks
- 45.6.2.3.7 The voting system provider shall pre-mark all ballots used for testing, with the exception of at least 175 blank ballots that shall represent 5 blank ballots for every precinct and precinct-split based on the programming mentioned in this section 45.6.2.3. Pre-marked ballots shall also have a predetermined tally that the voting system provider shall provide to the SOS for the testing of the ballots. Markings shall represent all of the testing scenarios as described in this rule.
- 45.6.2.3.8 The voting system provider shall provide 10 ballot marking pens/pencils/markers as defined by their system for marking ballots by the SOS or the designee.
- 45.6.2.3.9 Ballots shall be cast and counted in all applicable counter types (or counter groups) as necessary based on the parts included in the voting system. These are at a minimum: Poll Place (or Vote Center), Absentee, Provisional, and Early Voting. Ballots may be run through components 10 or more times depending on components and counter group being tested to achieve a minimum number of ballots cast as follows for each group:
- (a) Polling Place / OS = 1,500
  - (b) Polling Place / DRE = 500
  - (c) Vote Center/ OS = 5,000
  - (d) Vote Center / DRE = 500
  - (e) Early Voting / OS = 5,000
  - (f) Early Voting / DRE = 250
  - (g) Absentee = 10,000
  - (h) Provisional = 5,000
- 45.6.2.3.10 Ballot design shall cover the scope of allowable designs for the given system. For example, if a system is capable of producing 11” and 18” ballots, then both ballot styles shall be tested in each of the elections above. If more sizes are available, they shall also be tested.
- 45.6.2.3.11 Ballots shall be printed in applicable languages as required by state and/or federal law.
- 45.6.2.3.12 Ballots shall include candidates to represent the maximum number of political parties in the State of Colorado, and shall accommodate all qualified political parties and political organizations.

45.6.2.3.13 Ballots shall include the following minimum race situations to simulate and test “real world” situations in the State of Colorado:

- (a) Parties for different races.
- (b) Selection of a pair of candidates (i.e. president and vice president)
- (c) In a Primary Election, allow a voter to vote for the candidate of the party of his or her choice and for any and all non-partisan candidates and measures, while preventing the voter from voting for a candidate of another party.
- (d) In a general election, allow a voter to vote for any candidate for any office, in the number of positions allowed for the office, and to select any measure on the ballot that the candidate is allowed to vote in, regardless of party.
- (e) A minimum of 20 pairs of “yes” and “no” positions for voting on ballot issues.
- (f) Ability to contain a ballot question or issue of at least 200 words.

45.6.2.3.14 Additional tests and procedures may be requested at the discretion of the SOS.

#### 45.6.3 Failure Criteria

45.6.3.1 Voting systems shall successfully complete all of the requirements in this rule, and any additional testing that is deemed necessary by the SOS.

45.6.3.2 If any malfunction or data error is detected, its occurrence and the duration of operating time preceding it shall be recorded for inclusion in the analysis and the test shall be interrupted. If corrective action is taken to restore the devices to a fully operational condition within 8 hours, then the test may be resumed at the point of suspension.

#### 45.7 Temporary Use

45.7.1 If a voting system provider has a system that has been approved by an ITA, but has not yet been approved for certification through the SOS, the voting system provider or the designated election official may apply to the SOS for temporary approval of the system to be used for up to one year.

45.7.2 Upon approval of temporary use, a jurisdiction may use the voting system, or enter into a contract to rent or lease the voting system for a specific election upon receiving written notice from the SOS’s office. At no time shall a jurisdiction enter into a contract to purchase a voting system that’s been approved for temporary use.

45.7.3 The SOS shall approve use of a temporarily approved voting system for each election that a jurisdiction would like to conduct with the voting system.

45.7.4 Temporary use does not supersede the certification requirements and/or process, and may be revoked at any time at the discretion of the SOS.

#### 45.8 Periodic Review

45.8.1 The SOS shall periodically review the voting systems in use in Colorado to determine if the system(s):

- (a) Are defective, obsolete, or unacceptable for use based on the requirements of this rule.
- (b) Certified and approved versions of hardware or software have been modified.
- (c) The software matches with the software in escrow with the SOS.

45.8.2 The SOS shall review a minimum of two randomly selected jurisdictions and voting systems per calendar year at the choosing of the SOS.



- 45.8.3 After such review, certification or temporary approval for use may be withdrawn. Three (3) months notice shall be given prior to withdrawing certification of any voting system unless the SOS shows good cause for a shorter notice period.
- 45.8.4 All forms, notes and documentation from a periodic review shall be kept on file with the SOS.
- 45.9 Decertification
  - 45.9.1 If after any time the SOS has certified a voting system, it is determined that the voting system fails to meet the standards set forth in this rule, the SOS shall notify any end users in the State of Colorado and the voting system provider of that particular voting system that the certification of that system for future use and sale in Colorado is to be withdrawn.
  - 45.9.2 Certification of a voting system may be revoked and/or suspended at the discretion of the SOS based on information that may be provided after the completion of the initial certification. This information may come from any of the following sources:
    - (a) The Election Assistance Commission (EAC)
    - (b) Independent Testing Authorities (ITA)
    - (c) The Federal Election Commission (FEC)
    - (d) The National Software Reference Library (NSRL)
    - (e) National Association of State Election Directors (NASED)
    - (f) The National Association of Secretaries of State (NASS)
    - (g) Information from any state elections department or SOS
    - (h) Information from Colorado County Clerk and Recorder's or their association.
  - 45.9.3 Any use of a decertified or uncertified voting system for any jurisdiction in the State of Colorado shall result in possible loss of future and other existing certifications within the state, at the discretion of the SOS.
  - 45.9.4 Pursuant to § 1-5-621, C.R.S. the SOS shall hold a public hearing to consider the decision to decertify a voting system.
- 45.10 Modifications and Re-examination
  - 45.10.1 Any field modification, change, or other alteration to a voting system shall require approval or certification before it may be used in any election within the State of Colorado.
  - 45.10.2 A voting system provider may apply to the SOS for the review of a modification of an existing certified system at any time during the year. The voting system is required to go through the complete certification process.
- 45.11 Purchases and Contracts
  - 45.11.1 Any voting system that has been certified under the procedures of this Rule are eligible for purchase, lease, or rent for use by jurisdictions within the State of Colorado upon written approval by the SOS of the contract between the jurisdiction and the voting system provider.
  - 45.11.2 At the completion of contract negotiations, a jurisdiction entering into a contract to purchase, lease or rent a voting system for use in the State of Colorado shall request approval of the contract from the SOS prior to signing the contract.
  - 45.11.3 The SOS or his or the agent shall approve the contract based on the following minimum criteria:
    - (a) The voting system is certified for use within the State.
    - (b) Contract contains training and maintenance costs for Jurisdiction.

- (c) Contract identifies components contained in the certified voting system, and appears complete with all accessories necessary for successfully conducting an election within the laws and rules of the State of Colorado.
- (d) The voting system and associated components are purchased at or below the following costs:

Item and Description	Maximum Contracted Cost
Ballot Tabulation Only Software	\$48,000.00
Complete Software Package	\$420,000.00
DRE with V-VPAT	\$7,000.00
DRE without V-VPAT	\$5,000.00
DRE Card Activator or Programmer	\$3,000.00
DRE Disabled Devices attachment	\$1,000.00
Extended DRE Warranty Per unit Per Year	\$2,000.00
Precinct/Vote Center Level Optical Scanner	\$7,000.00
High Speed Absentee Scanner	\$120,000.00
Card Reader/Device to complete tabulation	\$7,000.00
Extended Warranty Per scanner unit Per Year	\$10,000.00
Yearly Maintenance	\$108,000.00
Ballot Programming Charges (complete)	\$65,000.00
Memory Cards or Cartridges (each)	\$1,000.00

- 45.11.4 The SOS shall take no more than three (3) business days to review the contract and return a decision to the corresponding jurisdiction.
- 45.11.5 The SOS shall annually review the costs in the table in section 45.12.3 and update it as necessary.
- 45.11.6 The SOS shall maintain on file a list of all components used and purchased for use. The list shall include at a minimum, the name of the jurisdiction, the date of purchase, the serial number(s) of voting devices and voting systems that was purchased.
- 45.11.7 Additionally, the voting system provider shall, through the process of this rule, complete and negotiate with the SOS a purchase price agreement for counties to use when purchasing equipment in the State of Colorado. The pricing agreement shall:
  - (a) Be valid for one year from the date of certification;
  - (b) Require renegotiations at the end of the pricing agreement period to continue future sales within the state;
  - (c) Allow counties to purchase equipment listed on the agreement at the agreed upon price for the duration or to negotiate directly with the voting system provider for a potentially lower price; and
  - (d) Be inclusive of the best costs the voting system provider is willing to sell all components, including any support, warranty or maintenance costs of the system being certified through this rule.

# **ELECTION JUDGES WORKBOOK**



# ELECTION JUDGE WORKBOOK

## SPECIAL DISTRICT REGULAR ELECTION

\_\_\_\_\_  
(DATE)

DESIGNATED ELECTION OFFICIAL'S PHONE NUMBER:



\_\_\_\_\_



COUNTY CLERK'S PHONE NUMBER:

\_\_\_\_\_



EMERGENCY PHONE NUMBER:

\_\_\_\_\_

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## **FREQUENTLY ASKED QUESTIONS**

### **WHAT IS AN ELECTION JUDGE?**

Election judges are responsible for the administration of election procedures on election day. They are in the position to see that all eligible electors are given the opportunity to exercise their constitutional right to vote and that the laws established by the Colorado Revised Statutes are followed to guarantee the purity of elections. Judges **cannot** leave the polling place after taking the Judges Oath, except in an emergency. The emergency must be reported to the designated election official immediately.

### **WHAT IS A DESIGNATED ELECTION OFFICIAL?**

The designated election official is appointed by the governing board of the special district. This person may be the secretary of the board, county clerk and recorder, municipal clerk or other person who has the overall responsibility for running an election.

### **WHAT ARE THE QUALIFICATIONS NECESSARY TO BE AN ELECTION JUDGE?**

- Be an eligible elector who resides in the special district, unless otherwise excepted, and is willing to serve
- Be physically and mentally able to perform required tasks.
- Attend a class of instruction concerning tasks of an election judge.
- Never have been convicted of any election fraud, any other election offenses, or fraud.
- Be neither a candidate whose name appears on the ballot in the election that they are appointed to serve nor a member of the immediate family, related by blood or marriage to the second degree, of a candidate whose name appears on the ballot.
- Complete an affidavit stating they have the necessary qualifications.

### **WHAT ARE SOME OF THE DUTIES OF THE ELECTION JUDGES?**

- To open and close the polls
- To be responsible for all election materials
- To ensure that only eligible electors are permitted to vote and that each eligible elector is permitted to vote only once.
- To maintain order in the polling place throughout the day.
- To ensure that no electioneering is going on in the polling place or within 100 feet of any building in which a polling place is located on election day.
- To perform all duties courteously, efficiently and in accordance with the law.

### **WHAT IS A “NONPARTISAN” ELECTION JUDGE AND HOW ARE THEY APPOINTED?**

All special district elections are “nonpartisan,” which means that all candidates listed on the ballot are not listed with a political party affiliation. All ballot issues or questions are “nonpartisan.”

No later than 45 days before a regular election, the designated election official shall appoint election judges unless otherwise directed by the board of directors of the special district. The designated election official shall appoint no less than two election judges for each polling place.

Any person who has been appointed by a clerk and recorder, who has filed an acceptance as an election judge and attended a class of instruction may be appointed as an election judge for a non partisan election

Election judges for nonpartisan elections shall have their appointment certified no later than 30 days before the regular nonpartisan election. The designated election official shall certify the list of appointed election judges and mail one acceptance form to each person appointed. The term of office for a nonpartisan election judge is two years from the date of the appointment.

### **WHAT IS A COORDINATED ELECTION?**

If more than one political subdivision holds an election on the same day in November and the eligible electors for each such election **are the same or the boundaries overlap**, the county clerk and recorder shall be the coordinated election official and shall conduct the election on behalf of all political subdivisions that are not utilizing the mail ballot procedure. Political subdivisions include counties, municipalities, school districts and special districts formed in accordance to Title 32 Article 1 of the Colorado Revised Statutes.

Elections that are set for the same day by various political subdivisions, **may** be held as coordinated elections if the governing bodies choose.

### **ARE ELECTION JUDGES COMPENSATED FOR THEIR TIME?**

In all elections, each judge shall receive not less than \$5 for their services provided as a judge at the election. Judges may be paid expenses and reasonable compensation for attending election schools. The amount of compensation is determined and paid by the special district conducting the election. Compensation is to be uniform throughout a particular special district.

### **WHAT ARE THE RESPONSIBILITIES OF A SUPPLY JUDGE?**

The supply judge is appointed by the designated election official and is responsible for the over-all conduct of the election in the polling place. Specifically, the supply judge's responsibilities include receiving election supplies and equipment from the designated election official, delivering election supplies and equipment to the polling place and returning all election supplies, election equipment and ballots to the designated election official once the election is concluded.

Prior to the election, the supply judge shall attend a special school of instruction held by the designated election official for which the judge is reimbursed no less than \$5.

### **AFTER THEIR APPOINTMENT, HOW CAN AN ELECTION JUDGE PREPARE FOR ELECTION DAY?**

The designated election official shall hold at least one class of instruction for all election judges. The acceptance form for an election judge contains a statement that a person who fails to attend a class of instruction may be disqualified from serving.

The designated election official will have the registration records, property owners list and all necessary registration supplies available for pick up by the supply judge at least one day prior to the election. The supply judge must sign a receipt for the registration records

The registration records and property owners list will be delivered in a sealed envelope or container. The supply judge will also receive the list of absentee voters.



It is advisable that the supply judge check the polling place prior to the election to ascertain that various equipment is available (phones, tables, chairs, electrical outlets, etc.) for election day. The supply judge will also need to make arrangements for getting into the building by 6 A.M. on election day.

**WHAT ARE THE REQUIREMENTS FOR TRANSLATING VOTING MATERIALS INTO OTHER LANGUAGES?**

Districts in the following Colorado counties are required by the Federal Voting Rights Act to provide all materials in English and the following languages: Alamosa (Spanish), Conejos (Spanish), Costilla (Spanish), Crowley (Spanish), Denver (Spanish), La Plata (American Ute Indian and American Navajo Indian), Montezuma (American Ute Indian and American Navajo Indian), Otero (Spanish), Rio Grande (Spanish) and Saguache (Spanish). The designated election official of the district will provide these materials if necessary.

## **SPECIAL CIRCUMSTANCES**

### **WATCHERS – DUTIES, OBLIGATIONS AND RIGHTS**

Watchers may be present at the polling place from 6:45 AM until the completion and the certification of the vote count. They have a right to keep a list of voters, to witness and to verify each step in the conduct of the election. They may also challenge potentially ineligible electors and assist in the correction of discrepancies. A watcher must be an eligible elector of the special district for which they are appointed

Candidates for office in nonpartisan elections, or interested parties in the case of a ballot issue or ballot question, will be entitled to appoint one person to act as a watcher in every polling place in which they are a candidate or in which the issue is on the ballot. **(See Form B-26)**

Watchers shall take an oath administered by one of the election judges. Neither candidates nor members of their immediate families by blood or marriage may be poll watchers for **that** candidate. **(See Form B-27)**

### **NON-ENGLISH SPEAKING ELECTOR ASSISTANCE**

If the elector has difficulty with the English language, they shall be entitled, upon making a request, to receive assistance of an election judge, or a person selected by the designated election official to provide assistance, or any person selected by the eligible elector requesting assistance. The person selected must be able to provide assistance in both the language in which the elector is proficient and in English. No person, other than an election judge or person selected by the designated election official shall be permitted to assist more than one elector per election unless the person is the elector's spouse, parent, grandparent, sibling or child eighteen years or older.

Any person who assists any eligible elector to cast their vote, shall first complete the "Non English Voter Assistance" **(See Form B-40)**

When assistance is provided to an elector, the name of the eligible elector assisted and the name of the person assisting shall be recorded in the poll book.

### **DISABLED VOTER ASSISTANCE**

Any person, who because of a physical disability or inability to read or write, is unable to complete his/her ballot or Self-Affirmation, or to operate the voting machine without assistance, shall be entitled to request assistance of any of the election judges or, at the elector's option, any eligible elector selected by the disabled elector.

Any person other than the election judge or the spouse, parent, grandparent, sibling or child eighteen or older of the elector who assists more than one eligible elector in casting his/her ballot shall first complete the "Disabled Voter Assistance" form **(See Form B-39)**.

When assistance is provided to an elector, the name of the eligible elector assisted and the name of the person assisting shall be recorded in the poll book

### **NAME DOES NOT APPEAR ON REGISTERED VOTER OR PROPERTY OWNER'S LIST**

Each person desiring to vote must complete a self-affirmation form **(See Form B-34)**. If a person's name does not appear on either the registered voters list or property owners list, an election judge must present to her/him a printed "Notice of Perjury" **(See Form B-35)** provided by the designated election official. The

individual should initial the notice and it should be attached to the self-affirmation. Then the individual may be given the ballot.

### **CHALLENGE OF VOTER**

The challenge procedure is used when an election judge, any eligible elector, watcher, or election official believes the person offering to vote is not qualified because of age, residency, citizenship or property ownership status.

All challenges are made by written oath, under penalty of perjury, taken by the challenger (**See Form B-41**). The Challenge Form is included with the election supplies. The form is to be signed by the challenger, and sets forth the name of the person challenged and the reason for the challenge. One of the judges administers the oath to the challenged elector (**See Form B-42 & B-43**) and asks the appropriate questions concerning his/her qualifications as an elector. If the challenge is not withdrawn after the person has answered the questions (**See Form B-41**) he/she is allowed to vote, and the word “sworn” is written after his/her name in the poll book. If the challenged elector refuses to answer the questions, his/her vote shall be rejected (shall not be allowed to vote). If the challenged elector answers the questions in a manner that would reflect the person is not an eligible elector, his/her vote shall be rejected. The Challenge Forms are returned to the designated election official with the other election supplies. Judges will want to keep the certificate of challenge with the ballot and note on the registration list that the person was challenged or that the challenge was withdrawn.

### **WRITE-IN CANDIDATES**

If election judges are asked direct questions regarding a candidate’s withdrawal or write-in candidate, the judges **may confirm** the information. Example: “Is Joanne Smith running as a write-in candidate?” The judges may answer, “Yes”. However, if an elector says, “Please tell me who is running as a write-in candidate.” The judge **may not** answer “Joanne Smith”. The designated election official will provide a list of all write-in candidates who filed the “Affidavit of Intent to be a Write-In Candidate”. This list is kept under the poll book. When asked by an eligible elector who is running as a write-in candidate, the list is handed to the eligible elector for review and then returned to the judge, who promptly returns the list under the poll book.

### **VOTER IDENTIFICATION:**

Any eligible elector wishing to vote must show his or her identification. The following forms of identification are acceptable:

- A valid Colorado driver’s license; or
- A valid Colorado Department of Revenue identification card; or
- A valid U.S. passport; or
- A valid pilot’s license with photograph issued by the Federal Aviation Administration; or
- A valid employee identification with a photograph issued by the U.S. Government, Colorado state government, or any county, municipality, board, authority, or other political subdivision of the state; or
- A valid U.S. Military Identification card with photograph; or
- A copy of a current utility bill, bank statement, government check, paycheck, or other governmental document that shows the name and address of the elector; or

If the voter is not able to show any form of identification as listed above, the voter must vote a provisional ballot. Once voted, the voter completes the provisional ballot affidavit and the voter’s ballot shall be sealed in a provisional ballot envelope (**See Form B-37 & 38**) and the ballot shall be secured and depos-

ited in a ballot container. All provisional ballots voted shall remain sealed in their envelopes for return to the designated election official for verification and processing. The provisional ballots shall not be counted on election day.

The election judge shall mark, on a space provided, on the provisional ballot envelope, indicating that the elector has failed to provide required voter identification.


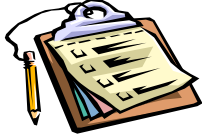
### **PROHIBITED ELECTION PRACTICES**

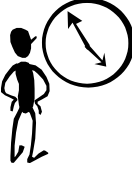
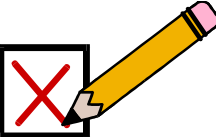
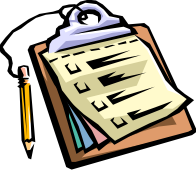


The Election Code prohibits the following practices. Any one of these infractions constitutes a misdemeanor, and, upon conviction, the offender is subject to a penalty fine not to exceed \$1,000 or by imprisonment in county jail not to exceed one year or both.

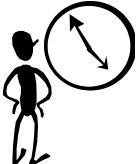

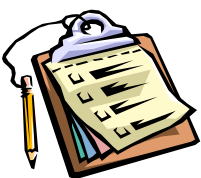


- Interfering with an election official
- Interfering with a watcher
- Violation or neglect of duty
- Intimidation of an eligible elector
- Electioneering within 100 feet of the polls
- Liquor in or near the polls
- Tampering with notices or supplies
- Tampering with registration list or property owners list
- Unlawfully refusing or permitting voting
- Voting more than one time
- Interfering with an eligible elector while voting
- Disclosing or identifying votes
- Destroying, removing or delaying of ballots and other election papers
- Revealing how an eligible elector votes
- Releasing information concerning the vote count before the accounting sheet is posted
- Tampering with the voting equipment

# JUDGES SUPPLY CHECKLIST

(Where appropriate, Special District Election Manual Forms are Identified)

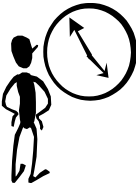

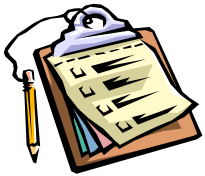
	SUPPLY ITEMS	<b>FORMS</b> 
	Self Affirmation (one for each voter)	B-34
	Poll Book	B-33
	Registration List	
	Property Owners List	
	Sample Ballots	
	Voter Instructions	B-31
	Paper Ballots, Voting Machines or Electronic Equipment	
	Ballot Box (for paper and provisional ballots)	
	Provisional Ballot Affidavit and Envelope	B-37 & B-38
	Transfer Case, Self Addressed Envelope and Voting Equipment and Seal (when electronic voting equipment is used)	
	Write-In Candidate List (if any)	
	Special District Election Code and Judges Instructions	
	Challenge Forms & Oaths	B-41, B-42 & B-43
	Watcher Forms	B-26 & B-27
	Disabled Voter Assistance Form	B-39
	Non-English Voter Assistance Forms	B-40
	Notice of Perjury	B-35
	Judges Oath	B-25
	Notices to Post – No Electioneering & Voting Assistance for Electors with Disabilities	B-30 & B-32
	Scissors, Tape, as needed	
	Black or Blue Ball Point Pens	
	Judges Certificates of Returns & Accounting Form	B-44, B-45 & B-46
	Judges Unofficial Abstract of Votes	B-48
	Receipt for Return of Election Materials	B-49
	Judges Expense Bill – Pay Sheet	B-52
	Cell Phone	



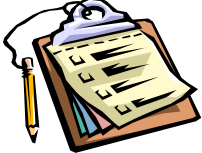
<b>TIME</b> 	<b>PROCEDURES</b> 	<b>FORMS</b> 
6:15 AM – 6:30 AM	Election judges arrive having already completed and signed the “Certification of Qualification of Election Judge”, “Acceptance of Appointment and Certificate of Appointment of Judges of Election.”	<b>B-23, B-25</b>
6:15 AM – 6:45 AM	<p>           _____ Set up election area in the following general order:                  _____ Voting instructions and sample ballots                  _____ Voter self affirmations, provisional ballot materials;                  _____ List of registered voters and property owners;                  _____ Voting booths or voting machines;                  _____ Ballot box(es), if used;                  _____ Polling Book;                  _____ Necessary supplies. <b>(INCLUDE A PHONE)</b> </p> <p>           _____ Sample ballots and instructions should be easily visible to voters before entering the immediate voting area.         </p> <p>  <b>Arrange voting booths or voting machines or ballot boxes so they are visible to all election judges. Arrange voting booths or voting machines so that no other person besides the election judges or elector casting the ballot is within six feet of the voting</b> </p> <p>           _____ If using voting machines, examine each machine to ensure that no vote has yet been cast and that every counter registers zero.         </p> <p>           _____ Post “No Electioneering”, “No Smoking” and “Voter Assistance” signs. Ensure that “Polling Place” signs posted at least 12 days earlier are still in place.         </p> <div data-bbox="576 1480 901 1879">  </div>	<p> <b>B-31, B-33, B-34 B-36, B-37, B-38</b> </p> <p> <b>B-28</b> </p> <p> <b>B-30 B-32</b> </p>



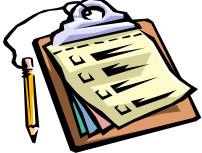

<b>TIME</b> 	<b>PROCEDURES</b> 	<b>FORMS</b> 
6:15 AM – 6:45 AM	<p>_____ Supply judge will assign duties to other judges. It is a good idea to change duties among judges during the day. Suggested division of duties is as follows, however, you may combine duties as necessary:</p> <p>_____ Self-affirmation &amp; identification assistance;          _____ Verification of registration and/or property ownership;          _____ Poll book entry and ballot distribution;          _____ Voting booth assistance and ballot box assistance</p> <p>_____ Administer judges oath. Each judge shall sign an oath of election. These are then attached to the poll book.</p> <p> <b>Judges may not leave the site. They can walk along the site. This may be a good idea to ensure that no one has placed campaign materials within 100 feet of the voting area.</b></p>	<b>B-25</b>
6:55 AM	<p>_____ Open ballot box(es) (if using paper ballots of electronic voting machines front of everyone and turn them upside down to make sure they are empty. Voting machines shall be examined to insure that no vote has been case and that every counter, except the protective counter, registers zero</p> <p>_____ Lock ballot box(es) securely</p>	
7:00 AM	<p>_____ One of the judges announces in a clear and loud voice that the polls are open.</p>	
7:00 AM 7:00 PM	<p>_____ It is advisable that the election judges vote first to ascertain that the voting devices are in proper working order. The same voting procedures must be followed with the registration list and poll book before a judge may be allowed to vote</p> <p> <b>If any election judge is not present at the opening of the polls, the designated election official shall be notified immediately. If the election judge appears at the polls by 7:30 AM, he/she, will be entitled to serve in the capacity as an election judge, but the tardiness will be so noted in the official returns.</b></p>	



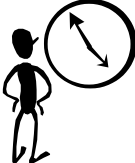
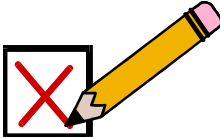
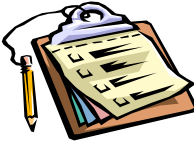





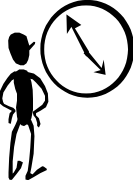

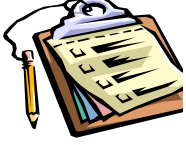

<b>TIME</b> 	<b>PROCEDURES</b> 	<b>FORMS</b> 
7:00 AM– 7:00 PM	<p>_____ Asks the poll book judge for the next poll book line number and writes it on both the self-affirmation and in the registration book.</p> <p>_____ Hands the self-affirmation to the poll book judge.</p> <p>_____ After receiving the signature card (self-affirmation), the poll book judge enters the eligible name (last name, first name and middle initial) and ballot number, and if not challenged, the elector shall be permitted to enter the voting area. <b>Do not skip lines in the poll book.</b> No eligible elector shall occupy a voting booth for more than 10 minutes.</p> <p><b>PAPER BALLOTS</b> Election judges shall give to each eligible elector a single ballot, which shall be separated from the stub by tearing or cutting along the perforated or dotted line. The election judge shall put his/her initials on the duplicate stub.</p> <p>_____ Upon receiving a ballot, the elector shall proceed unaccompanied to a voting booth. To cast a vote, the elector marks the appropriate square or places a cross mark (X) opposite the name of the candidate or the names of the joint candidates of their choice or the ballot issue or question they desire.</p> <p>_____ Before leaving the booth, the elector shall fold the ballot without displaying the marks, in the same way it was folded when received by the elector, so that the contents of the ballot are concealed and the stub can be removed without exposing any of the contents of the ballot, and shall keep the ballot folded until it is deposited in the ballot box.</p> <p>_____ After completing the ballot, the elector shall leave the voting booth and give his/her name to the election judge in charge of the ballot box. The election judge shall clearly announce the name. The elector's ballot shall be handed to the election judge in charge of the ballot box, who shall announce the name of the elector and the number on the duplicate stub, which should correspond with the stub number on the registration list.</p>	

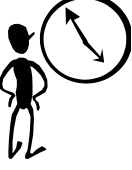

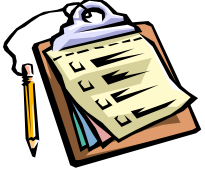


<b>TIME</b> 	<b>PROCEDURES</b> 	<b>FORMS</b> 
<p>7:00 AM– 7:00 PM</p>	<p>_____ If the stub number of the ballot corresponds and is identified by the initials that the issuing election judge placed there, the election judge shall then remove the duplicate stub from the ballot. The ballot shall then be returned by the election judge to the elector, who shall, in full view of the election judges, deposit it in the ballot box, with the official endorsement on the ballot facing upward.</p> <p><b>VOTING MACHINES</b> The designated election official shall provide each polling place with two sample ballots which shall be arranged in the form of a diagram showing the front of the voting machine as it will appear after the official ballot labels are arranged for voting on election day.</p> <p>_____ In case any elector, after entering the voting machine asks for further instructions concerning the manner of voting, an election judge shall give instructions to the elector. No election judge or other election official or person assisting an elector shall enter the voting machine, except as provided for disabled voters or non-English speaking electors.</p> <p>_____ No person shall deface or damage any voting machine or the ballot thereon. The election judges shall designate at least one election judge to be stationed beside the entrance to the voting machine during the entire period of the election to see that it is properly closed after each voter has entered. The judges shall, as they deem necessary, also examine the face of the machine to determine whether it has been defaced or damaged, to detect any wrongdoing and to repair any damage.</p> <p><b>ELECTRONIC VOTING EQUIPMENT</b> An election judge shall give to each eligible elector only one ballot or ballot card, which shall be removed from the package by tearing it along the perforated line below the stub. The election judge in charge of the poll book shall write the name of the eligible elector and the number of the ballot or ballot card in the poll book.</p> <p>_____ After receiving a ballot, the elector shall proceed unaccompanied to the voting booth. To cast a vote, the</p>	

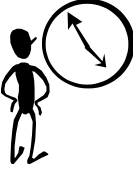

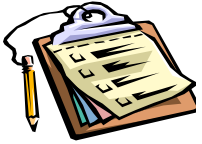
<b>TIME</b> 	<b>PROCEDURES</b> 	<b>FORMS</b> 
<p>7:00 AM– 7:00 PM</p>	<p>_____ elector clearly marks or stamps in the appropriate square or places a crossmark (X) opposite the candidate or names of candidates or opposite the ballot issue or question the elector chooses.</p> <p>_____ Before leaving the voting booth, the eligible elector, without displaying the marks thereon, shall place the ballot in the privacy envelope so that the contents of the ballot or ballot card are concealed and shall place the envelope and the ballot or ballot card in the ballot box.</p> <p>_____ Upon leaving the voting booth, the elector shall approach the election judge having charge of the ballot box. The elector shall give his or her name to one of the election judges. The elector shall in full view of the election judges, deposit the ballot or ballot card in the ballot box, with the official endorsement on the ballot or ballot card facing upward.</p> <p>_____ In polling places which use electronic voting equipment in which voting is by a method other than a ballot, each voter shall be listed by name in the poll book and shall be given an entry card to the electronic voting device.</p> <p> <b>In a polling place where voting is on a ballot or ballot card, no person shall remove any ballot or ballot card from the polling place before the close of the polls. Any eligible elector who spoils a ballot or ballot card may successively obtain others, one at a time, not exceeding three in all, upon returning each spoiled ballot or ballot card. The spoiled ballots or ballot cards returned shall be immediately canceled and shall be preserved and returned to the designated election official.</b></p>	



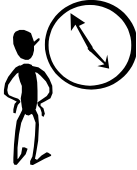
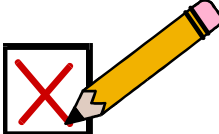
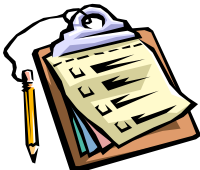


<b>TIME</b> 	<b>PROCEDURES</b> 	<b>FORMS</b> 
<b>AFTER 7:00 PM</b>	<p> <b>PAPER BALLOTS (cont.)</b> All forms including the “Judges Expense Bill – Pay Sheet”, shall be signed by the election judges and along with all of the materials and ballot boxes, shall be returned to the designated election official by the supply judge. The designated election official shall complete the “Receipt for Return of Election Materials”.         </p> <p>  <b>Votes cast for an office to be filled or a ballot issue to be decided, shall not be counted if an elector marks more names than there are persons to be elected to an office or if for any reason it is impossible to determine the elector’s choice of candidate or vote concerning the ballot issue.</b> </p> <p>  <b>A defective or incomplete cross mark on any ballot in a proper place shall be counted if no other cross mark appears on the ballot indicating an intention to vote for some other candidate or issue.</b> </p> <p>  <b>If the election judges are unable to determine the intent of the elector’s vote in a section of the ballot, that section shall be marked “defective” and no vote shall be counted for such section. If the election judges are unable to determine the intent of the elector’s vote for all candidates sections and ballot issues or ballot questions, the entire ballot shall be marked “defective”, banded together and separated from the other ballots returned to the ballot box, and</b> </p> <p> <b>VOTING MACHINES.</b> As soon as the polls are closed, the election judges shall immediately lock and seal each voting machine against further voting.         </p> <p>           Immediately after each machine is locked and sealed; the judges shall open the counting compartment and proceed to count the votes. After the total vote for each candidate and for each ballot issue has been counted, the election judge will record the number of votes cast.         </p>	<p><b>B-52</b></p> <p><b>B-49</b></p>

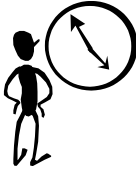
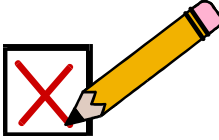
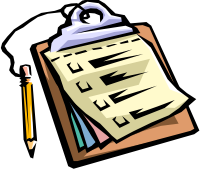


<b>TIME</b> 	<b>PROCEDURES</b> 	<b>FORMS</b> 
<b>AFTER 7:00 PM</b>	<p><b>VOTING MACHINES (cont)</b></p> <p>_____ Election judges utilizing the “Accounting Forms” will carefully re- cord the votes cast for each of the candidates and for each ballot issue</p> <p>_____ The judges complete the “Judges’ Unofficial Abstract of Votes”. It is posted for 48 hours in a conspicuous place that can be seen from outside the polling place.</p> <p>_____ Judges complete and sign the “Certificate of Election Results”..</p> <p>_____ All forms, including the “Judges Expense Bill – Pay Sheet”, shall be signed by the election judges and along with all of the materials and ballot boxes, shall be returned to the designated election offi- cial by the supply judge. The designated election official shall com- plete the “ Receipt for Return of Election Materials”.</p> <p><b>ELECTRONIC VOTING EQUIPMENT</b></p> <p>_____ After the polls have closed, the election judges shall secure the vote recorders or the voting devices, or both, against further use.</p> <p>_____ The return printed by the electronic vote tabulation shall constitute the official return of each polling place when certified by the desig- nated election official. It is posted by the election judges in a con- spicuous place that can be seen from outside the polling place where it remains for 48 hours.</p> <p> <b>All individuals involved in the processing and counting of ballots or recorded polling place votes shall be deputized in writing and take an oath that they will faithfully perform their assigned duties</b></p> <p>_____ All forms signed by the election judges, including the “Judges Ex- pense Bill – Pay Sheet”, and election materials, shall be returned by the supply judge to the designated election official. The desig- nated election official completes the “Receipt for Return of Election Materials”.</p>	<p><b>B-44,</b></p> <p><b>B-48</b></p> <p><b>B-45 &amp; B-46</b></p> <p><b>B-52</b></p> <p><b>B-49</b></p> <p><b>B-52</b></p> <p><b>B-49</b></p>

<b>TIME</b> 	<b>PROCEDURES</b> 	<b>FORMS</b> 
<b>AFTER 7 PM</b>	<p><b>Preparing to count absentee ballots:</b></p> <p>_____ The designated election official shall have already delivered to the supply judge, all the absentee envelopes received up to that time in packages or ballot boxes that are locked and sealed with a numbered seal together with the signed Application for Absentee Ballots, the count and the list of absentee electors and the “Record of Absentee Voter Ballot Applications”. A receipt shall be given.</p> <p> <b>On the sealed packages and boxes of absentee envelopes shall be printed or written, “This package (or box) contains ____ (number) absentee envelopes</b></p> <p> <b>With the envelopes, the designated election official shall deliver to the supply judge written instructions, which will be followed by the election judges in casting and counting the ballots, and all of the lists, records, and supplies needed for tabulating, recording and certifying the absentee ballots. The ballots will NOT have been removed from the envelopes.</b></p> <p>_____ The outside of the absentee ballot envelope will designate whether or not the voter is required to provide a copy of an approved form of identification. This is a requirement for first time voters in the county. If the voter has submitted a copy of the identification, the identification should be removed and placed aside to be given to the designated election official. The ballot envelope shall be placed with the other absentee ballot envelopes.</p> <p>_____ If the marked return envelope should include identification, but does not, the ballot shall be treated as a provisional ballot. The outside of the return envelope shall be marked provisional and counted separately (See Page 23-24)</p> <p>_____ Before opening any ballot envelope, one of the election judges, in the presence of a majority of the other judges, inspects the self-affirmation on the return envelope. For the ballot to be counted, the self-affirmation must have been completed by the elector and signed.</p>	<p><b>B-17 B-20</b></p> <p><b>B-19</b></p>

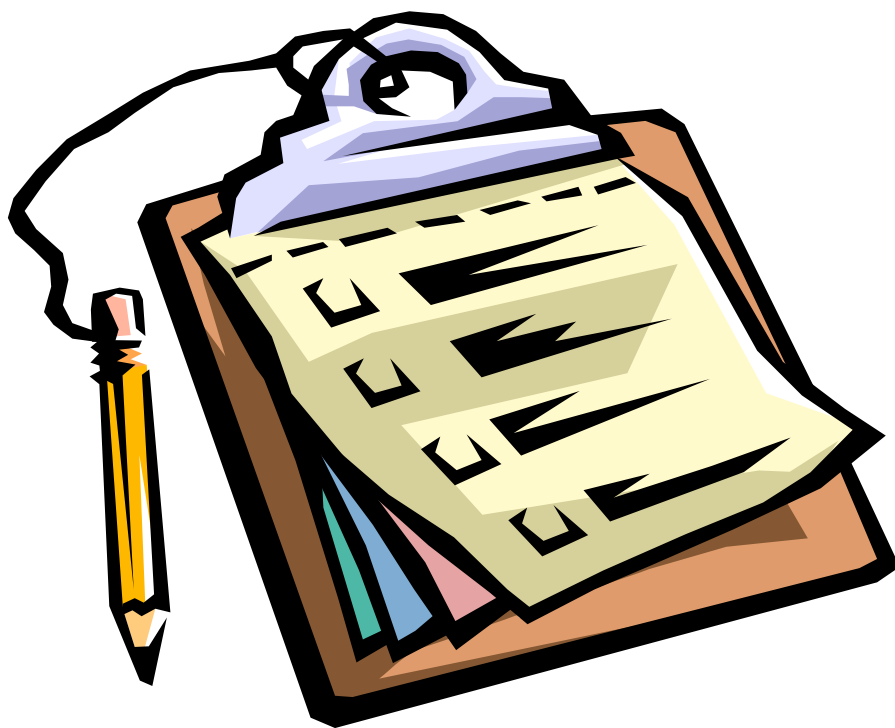
<b>TIME</b> 	<b>PROCEDURES</b> 	<b>FORMS</b> 
	<p>_____ If the self-affirmation on the return envelope does not meet the requirements, the election judges shall mark the envelope “rejected” and shall write on the envelope the reason for the rejection. The envelope shall be set aside without being opened, and the ballot shall not be counted.</p> <p>_____ If an absentee envelope contains more than one marked ballot of any kind, none of the ballots shall be counted and the election judges shall write the reason for the rejection on the back of the ballot envelope.</p> <p>_____ If these requirements have been met and the self-affirmation appears complete and correct, the receiving judge shall tear open the envelope without defacing the self-affirmation or mutilating the enclosed ballot. One of the judges shall enter or verify the name of the absentee in the poll book , remove the ballot stub and another election judge shall deposit the ballot in the ballot box.</p> <p>_____ Election judges shall certify in their returns the number of absentee ballots cast and counted for each candidate, for or against each ballot issue or question and the number of ballots rejected.</p> <p><b>Counting the absentee ballots:</b></p> <p>_____ <b>PAPER BALLOTS.</b> Each ballot shall be read and counted separately. Every name of each candidate marked as voted for on the ballot shall be read and an entry made on each accounting form before any other ballot is counted. Votes cast for or against any measure appearing on the ballot shall be counted in the same manner. When all of the votes have been read and counted, the ballots shall be returned to the ballot box or package, the opening sealed and the election judges shall place their initials on the seal.</p>	<p><b>B-33</b></p> <p><b>B-45-46</b></p> <p><b>B-44</b></p>



<b>TIME</b> 	<b>PROCEDURES</b> 	<b>FORMS</b> 
<p>BEGIN THE DAY AFTER THE ELECTION</p>	<p>Counting the absentee ballots (cont.):</p> <p>_____ <b>VOTING MACHINES.</b> The designated election official will direct the election judges in this process. Usually, the process is as follows. One election judge shall call aloud the name of the candidate voted for and a second election judge shall observe that the first judge reads the ballot correctly. Two other election judges shall attend the voting machine so that one of the judges may depress the lever for the candidate whose name is being read, and the other judge shall observe closely that the proper levers are being depressed as the votes are read aloud; another judge shall prepare the machine to receive ballots. Votes cast for or against any measure appearing on the ballot shall be cast in the same manner.</p> <p><b>Preparing and Counting Provisional Ballots:</b></p> <p> <b>A provisional ballot board made up of 2 or more election judges shall be appointed by the designated election official and shall count all provisional ballots. This board shall be appointed no later than 45 days before the election. The designated election official shall determine the time that provisional processing begins.</b></p> <p> <b>Provisional ballots must be segregated, counted separately, and kept separated from all other ballots. Provisional ballots are to be counted after the verification process.</b></p> <p>_____ The designated election official or designee shall complete verification without opening the ballot envelope. Verification of an elector's registration for a provisional ballot shall be limited to the following databases available at the local clerk and recorder's office:</p> <ul style="list-style-type: none"> <li>a) The local election office database, also confirming in this database that an absentee ballot has not been requested;</li> <li>b) The secretary of state's database; or</li> <li>c) The driver's license database</li> </ul>	

<b>TIME</b> 	<b>PROCEDURES</b> 	<b>FORMS</b> 
	<p> <b>If 25 or more provisional ballots have been cast and counted in the election, they shall be reported as one total. If less than 25 provisional ballots have been cast and counted in the election they shall be included with the absentee total.</b></p> <p>_____ The provisional ballot shall not be counted if any one of the following are true:</p> <ul style="list-style-type: none"> <li>a) The elector was not registered by the deadline in the State of Colorado;</li> <li>b) The affidavit was not signed; or</li> <li>c) The elector was not eligible to vote in such an election</li> </ul> <p> <b>Votes cast by provisional ballot shall not be included in any unofficial results reported and may not be reported except as part of the official canvass.</b></p> <p>_____ A log must be kept for audit purposes of each provisional ballot voted, each provisional ballot counted, and each provisional ballot rejected.</p> <p>_____ As much as possible, the reason for accepting or rejecting a provisional ballot shall be designated on the provisional ballot envelope and on the log by one of the following codes.</p> <p><u>Acceptance Code</u>  OK—Reviewed and countable; all criteria met and ballot will be counted</p> <p><u>Rejection Codes</u>  ANS-Affidavit not signed  INC-Required information is incomplete  NPR-Elector not previously registered; elector indicated registration in another Colorado county, but that county does not show a record of voter's registration  NR-Voter did not register by the deadline; there is no Colorado record  EE-Provisional ballot envelope is empty  NE-Elector not eligible to vote in election</p>	<p><b>B-50</b></p> <p><b>B-51</b></p>

# FORMS



# **SAMPLE ELECTION FORMS**

**NOTE: THE DEPARTMENT OF LOCAL AFFAIRS DEVELOPED THESE FORMS AS A CONVENIENCE TO SPECIAL DISTRICTS TO MEET THEIR STATUTORY ELECTION REQUIREMENTS. THESE SAMPLE FORMS WERE WRITTEN USING RELEVANT STATUTORY CITATIONS AND ELECTION FORMS FROM OTHER LOCAL GOVERNMENTS. DISTRICTS ARE NOT REQUIRED TO USE THESE SPECIFIC FORMS. A DISTRICT WISHING TO DEVELOP ITS OWN DOCUMENTS MAY WANT TO CONSULT WITH LEGAL COUNSEL.**

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## ELECTION BUDGET

Name of Jurisdiction:	
Number of Registered Electors	
Number of Property Owners	
Number of Ballot Types	

SPECIAL DISTRICT ELECTION	2006 ESTIMATE	2006 ACTUAL	2004 ACTUAL	2006 INCREASE/ DECREASE
Personal Services: Salaries – Full Time Salaries – Part Time FICA Colo. Unemployment Insurance Worker's Comp Insurance Health Insurance Retirement Election Judges Other				
<b>Total Personal Services</b>				
Supplies: Office Supplies Legal Notices Computer Supplies Ballots for Elections Other				
<b>Total Supplies</b>				
Other Services & Charges: Mailing Printing Professional Services (Legal, etc.) Travel, Lodging & Meals Voting Equipment Rental Telephone Other				
<b>Total Other Services &amp; Charges</b>				
<b>TOTAL</b>				



## CALL FOR NOMINATIONS

**TO WHOM IT MAY CONCERN**, and, particularly, to the electors of the \_\_\_\_\_  
\_\_\_\_\_ District of \_\_\_\_\_ County, Colorado.

**NOTICE IS HEREBY GIVEN** that an election will be held on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_,  
between the hours of 7:00 a.m. and 7:00 p.m. At that time, \_\_\_\_\_ directors will be elected to serve 4-year terms and  
\_\_\_\_\_ directors will be elected to serve 2-year\* terms.

Self-Nomination and Acceptance Forms are available from \_\_\_\_\_ of the  
\_\_\_\_\_ (district's designated election official)  
\_\_\_\_\_ District at  
\_\_\_\_\_  
\_\_\_\_\_ (address)

Self -Nomination and Acceptance form or letter are to be returned to the Designated Election Official not less than 67  
days prior to the regular election: \_\_\_\_\_.  
(enter actual date)

**NOTICE IS FURTHER GIVEN** that applications for and return of absent voter's ballots may be filed with  
\_\_\_\_\_, District Designated Election Official, at  
\_\_\_\_\_ (name)  
\_\_\_\_\_, between the hours of \_\_\_\_\_ a.m. and \_\_\_\_\_ p.m., until the close of  
\_\_\_\_\_ (address)  
business on the Friday immediately preceding the regular election (Friday, \_\_\_\_\_, 20\_\_\_\_).  
\_\_\_\_\_ District

By/s/ \_\_\_\_\_ Designated Election Official

**PROCEDURAL INSTRUCTIONS: For Regular Elections, the "Call for Nominations" is to be published not less than 75 days nor more than 90 days before election (C.R.S. 32-1-804.1)**

**\* Use only when vacancy has been filled by appointment and any remaining unexpired portion of term must be filled by election.**

## SELF- NOMINATION AND ACCEPTANCE

32-1-804.3; 1-45-110 C.R.S.

I, \_\_\_\_\_,  
(full name of the candidate as the name will appear on the ballot)  
who reside at: \_\_\_\_\_  
(residence street name and number)  
\_\_\_\_\_  
(mailing address if different from residence address)  
\_\_\_\_\_  
(city or town, zip code)  
\_\_\_\_\_  
(county)

hereby nominate myself and accept such nomination for the office of Director for a \_\_\_\_\_ (\_\_\_\_\_) year term on the  
Board of Directors of \_\_\_\_\_ District at the \_\_\_\_\_  
election and will serve if elected. (date of election)

I affirm that I am an eligible elector of \_\_\_\_\_  
District and am an eligible elector at the date of signing this Self-Nomination and Acceptance Form.

**I further affirm that I am familiar with the provisions of the Fair Campaign Practices Act as required in § 1-45-110 of the Colorado Revised Statutes.**

\_\_\_\_\_  
(phone number of candidate)  
\_\_\_\_\_  
(printed name of candidate) \_\_\_\_\_ (signature of candidate) \_\_\_\_\_ (date)

### Information provided by the witness who is a registered elector:

\_\_\_\_\_  
(residence street name and number)  
\_\_\_\_\_  
(mailing address if different from residence address)  
\_\_\_\_\_  
(city or town, zip code)  
\_\_\_\_\_  
(county)  
\_\_\_\_\_  
(phone number of witness)  
\_\_\_\_\_  
(printed name of witness) \_\_\_\_\_ (signature of witness) \_\_\_\_\_ (date)

**PROCEDURAL INSTRUCTIONS:** This form must be filed with the Designated Election Official (DEO) of the District not less than 67 days prior to the regular election. To meet Fair Campaign Practices Act requirements, this form must be filed with the county clerk and recorder no less than 55 days prior to the regular election. Contact the DEO to verify the official due dates.

Received at \_\_\_\_\_, Colorado, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_,  
By: \_\_\_\_\_, Designated Election Official  
\_\_\_\_\_ District, \_\_\_\_\_ County, Colorado

# NOTICE OF ELECTION

1-5-205, C.R.S

**TO WHOM IT MAY CONCERN**, and, particularly, to the electors of the \_\_\_\_\_  
\_\_\_\_\_, District of \_\_\_\_\_, County, Colorado.

**NOTICE IS HEREBY GIVEN** that an election will be held on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, between the hours of 7:00 a.m. and 7:00 p.m. The Board of Directors of the District has designated the following polling places: (specify the location for each polling place)

Director District Boundaries (if applicable):      Polling Place:

At said election, the electors of the District shall vote for Directors to serve the following terms of office on the Board of Directors of the District (or state purpose of special election):

\_\_\_\_\_ Directors for a FOUR-Year Term \_\_\_\_\_ Director(s) for a TWO-Year Term\*\*

The names of persons nominated and terms of office for which nominated are as follows:

\_\_\_\_\_ for a \_\_\_\_\_-Year Term

\_\_\_\_\_ for a \_\_\_\_\_-Year Term

\_\_\_\_\_ for a \_\_\_\_\_-Year Term

Other Ballot Issues and Ballot Questions, if any, certified by the \_\_\_\_\_  
District:  
(Insert text here)

**NOTICE IS FURTHER GIVEN** that an eligible elector of said District for the purpose of said election is a person registered to vote pursuant to the "Colorado Uniform Election Code of 1992;" and (I) who has been a resident of the District for not less than thirty (30) days, or (II) who, or whose spouse, owns taxable real or personal property within the District, whether said person resides within the District or not. A person who is obligated to pay taxes under a contract to purchase taxable property within the District shall be considered an owner of taxable property for the purpose of qualifying as an eligible elector.

**NOTICE IS FURTHER GIVEN** that applications for and return of absent voter's ballots may be filed and replacement ballots may be received from;

\_\_\_\_\_, Designated Election Official of the District at:  
(name)

(address)

between the hours of \_\_\_\_\_ a.m. and \_\_\_\_\_ p.m., until the close of business on the Friday immediately preceding the regular election (Friday, \_\_\_\_\_, 20\_\_\_\_\_).

District

By/s/ \_\_\_\_\_ Designated Election Official

**PROCEDURAL INSTRUCTIONS:** See Form B-5

## **EXPLANATION FOR NOTICE OF ELECTION**

1-5-205, C.R.S.

### **PROCEDURAL INSTRUCTIONS:**

**\*\*Use only when a vacancy has been filled by appointment and any remaining unexpired portion of the term must be filled by election.**

**This notice is to be published no later than 10 days before the election and until 2 days after the election. (C.R.S. 1-5-205).**

**Mail a copy of this notice to the county clerk and recorder(s) of the county(ies) in which the district is located.**

**If a district is in more than one county and the district's population in the other county(ies) is less than fifty, then this notice does not have to be published in the other county(ies) where the population is less than fifty.**

**For November elections only, you must provide an early voting location. The location must be identified in the notice.**

**(1-5-205(1)(b), C.R.S.)**

**This notice must still be published if you choose to notify your electorate by post card according to 1-5-206(2)(a), C.R.S.**

## NOTICE OF ELECTIONS – MAIL BALLOT

1-7.5-107(2.5)(a), C.R.S.

**TO WHOM IT MAY CONCERN** and particularly to the electors of the \_\_\_\_\_  
\_\_\_\_\_ District of \_\_\_\_\_ County,  
Colorado.

**NOTICE IS HEREBY** given that a regular election of the \_\_\_\_\_  
\_\_\_\_\_ District shall be held on \_\_\_\_\_, 20\_\_\_\_, during the hours of 7:00 AM and  
7:00 PM. The election is being conducted as a mail ballot election. The walk-in replacement ballots shall be  
located at \_\_\_\_\_, Colorado  
(address)  
and shall be open Monday through Friday, between the hours of \_\_\_\_\_AM and \_\_\_\_\_PM, beginning at  
least 25 days prior to the election day and from 7:00 AM to 7:00 PM on election day.

\_\_\_\_\_  
(district))

\_\_\_\_\_  
(designated election official)

Published in: \_\_\_\_\_

Published on: \_\_\_\_\_, 20 \_\_\_\_

**PROCEDURAL INSTRUCTIONS:** This notice of election for “Mail Ballot” elections is to be published at  
least 20 days before the election in a newspaper of general circulation in the county or counties where  
the District is located.

# AFFIDAVIT OF INTENT TO BE A WRITE-IN CANDIDATE

1-4-1101, 32-1-103(5), C.R.S.

To: \_\_\_\_\_  
(designated election official)

\_\_\_\_\_  
(name of district)

\_\_\_\_\_  
County, Colorado.

This is to certify, that I, \_\_\_\_\_, desire the office of Director for a \_\_\_\_\_ ( )  
year term, and to the best of my knowledge and belief, I am fully qualified to assume the duties of the office if elected;  
that I am registered to vote pursuant to the "Colorado Uniform Election Code of 1992" and I am:

\_\_\_\_\_ A resident of the District or area to be included in the District for not less than thirty (30) days; or

\_\_\_\_\_ The owner (or spouse of owner) of taxable real or personal property situated within the boundaries of the  
District or the area to be included in the District.

\_\_\_\_\_ A person who is obligated to pay taxes under a contract to purchase taxable property within the District or the  
area to be included in the District and shall therefore be considered an owner of taxable property for the purpose of  
qualifying as an elector.

My residence address is \_\_\_\_\_

Post office address is \_\_\_\_\_, City \_\_\_\_\_, Zip Code \_\_\_\_\_, County of  
\_\_\_\_\_, State of Colorado.

The undersigned will serve as Director of the \_\_\_\_\_ District if  
elected.

\_\_\_\_\_  
(signature of candidate)

## STATE OF COLORADO

\_\_\_\_\_  
County

Before me \_\_\_\_\_, an officer duly authorized to administer oaths, in and for said  
State, personally appeared \_\_\_\_\_ (name of Candidate) whose name is  
subscribed to the foregoing Affidavit of Intent to be a Write-In Candidate, and who being first duly sworn, upon oath  
says, that the foregoing statements are true and that the Candidate acknowledges the execution of said instrument to  
be his/her free act and voluntary deed for the uses and purposes therein set forth.

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

\_\_\_\_\_  
(officer administering oath)

\_\_\_\_\_  
(title of officer)

My Commission Expires \_\_\_\_\_

**PROCEDURAL INSTRUCTIONS: Form must be filed with the Designated Election Official of the District by the  
close of business on the 64th day before the election. 1-4-1102(2), C.R.S.**

**RESOLUTION  
APPOINTING A DESIGNATED ELECTION OFFICIAL AND  
AUTHORIZING DESIGNATED ELECTION  
OFFICIAL TO CANCEL ELECTION**

1-1-111(2), 1-5-208(1.5), C.R.S.

**WHEREAS**, pursuant to 1-1-111(2) C.R.S., the Board of Directors of the \_\_\_\_\_  
\_\_\_\_\_ District is authorized to designate an election official to exercise  
authority of the Board in conducting an election, and

**WHEREAS**, pursuant to 1-5-208, C.R.S., the Board can authorize the Designated Election Official to cancel the  
election upon certain conditions;

**NOW THEREFORE**, be it resolved by the Board of Directors for the \_\_\_\_\_  
\_\_\_\_\_ District that: (1) the Board [hereby names][has named]  
\_\_\_\_\_ as the Designated Election Official for the  
regular/special district election scheduled for the \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_, and (2) the Board hereby authorizes  
and directs the Designated Election Official to cancel said election and declare the candidates elected if at the close  
of business on the sixty-third day before the election there were not more candidates for director than offices to be  
filled, including candidates filing affidavits of intent to be write-in candidates. The Board further authorizes and directs  
the Designated Election Official to publish and post notice of the cancellation at each polling place and in the offices  
of the Designated Election Official, Clerk and Recorder of each county in which the district is located, and file with the  
Division of Local Government. The Designated Election Official shall also notify the candidates that the election was  
canceled and they were elected by acclamation.

Adopted this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_, by the Board of Directors of the \_\_\_\_\_  
\_\_\_\_\_ District.

\_\_\_\_\_  
(president)

\_\_\_\_\_  
(secretary)

**RESOLUTION  
CANCELLATION OF ELECTION  
DECLARATION DEEMING CANDIDATES ELECTED**  
(If Board cancels election)

1-5-208(1.5), C.R.S.

\_\_\_\_\_ DISTRICT,  
\_\_\_\_\_ COUNTY, COLORADO

WHEREAS, the Board of Directors of the District has duly certified that at the close of business on the sixty-third day before the election to be conducted on \_\_\_\_\_, there were not more candidates for director  
(date of election)

than offices to be filled, including candidates filing affidavits of intent to be write-in candidates, AND WHEREAS, the board has authorized cancellation of the election AND WHEREAS, the board has held a meeting regarding the intention to cancel the election. Now, THEREFORE, pursuant to 1-5-208 (1.5), C.R.S., the board HEREBY cancels the regular election to be conducted on the \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

THE BOARD DECLARES THE FOLLOWING CANDIDATES DEEMED ELECTED FOR THE FOLLOWING TERMS OF OFFICE:

_____ (name)	_____ (address)	_____ (year term)
_____ (name)	_____ (address)	_____ (year term)
_____ (name)	_____ (address)	_____ (year term)
_____ (name)	_____ (address)	_____ (year term)
_____ (name)	_____ (address)	_____ (year term)

Signed by: \_\_\_\_\_  
(member of the board of directors of the district)

Contact Person for the District: \_\_\_\_\_

Telephone Number of the District: \_\_\_\_\_

Address of the District: \_\_\_\_\_

**PROCEDURAL INSTRUCTIONS: Publish and post Notice of Cancellation in order to inform the electors of the District. Must post at all polling places, in the office of the Designated Election Official, County Clerk and Recorder, and file with the Division of Local Government.**



**RESOLUTION  
CANCELLATION OF ELECTION  
DECLARATION DEEMING CANDIDATES ELECTED**  
(If the Designated Election Official cancels the election)

1-5-208(1.5), C.R.S.

\_\_\_\_\_ DISTRICT  
\_\_\_\_\_ COUNTY, COLORADO

**WHEREAS**, the Designated Election Official of the District has been duly authorized by the Board of Directors to cancel and declare candidates elected at the close of business on the sixth-third day before the election to be conducted on \_\_\_\_\_, **AND WHEREAS**, there were not more candidates for director  
(date of election)

than offices to be filled, including candidates filing affidavits of intent to be write-in candidates. Now **THEREFORE**, pursuant to 1-5-208(1.5), C.R.S. the Designated Election Official HEREBY cancels the regular election to be conducted on \_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

THE ELECTION IS CANCELED BY FORMAL RESOLUTION AND THE FOLLOWING CANDIDATES ARE DECLARED ELECTED FOR THE FOLLOWING TERMS OF OFFICE:

_____	_____	_____
(name)	(address)	(year term)
_____	_____	_____
(name)	(address)	(year term)
_____	_____	_____
(name)	(address)	(year term)
_____	_____	_____
(name)	(address)	(year term)
_____	_____	_____
(name)	(address)	(year term)

Signed by:

\_\_\_\_\_  
(member of the board of directors of the district)

Contact Person for the District:

\_\_\_\_\_

Telephone Number of the District:

\_\_\_\_\_

Address of the District:

\_\_\_\_\_

**PROCEDURAL INSTRUCTIONS:** Publish and post Notice of Cancellation in order to inform the electors of the District. Must post at all polling places, in the office of the Designated Election Official, County Clerk and Recorder, and file with the Division of Local Government.

**RESOLUTION**  
**AUTHORIZING DESIGNATED ELECTION**  
**OFFICIAL TO CANCEL ELECTION**  
(Alternate)

1-5-208(1.5), C.R.S.

**WHEREAS**, pursuant to 1-5-208(1.5), C.R.S., the Board of Directors of the \_\_\_\_\_  
\_\_\_\_\_ District can authorize the Designated Election Official to  
cancel an election upon certain conditions;

**NOW THEREFORE**, the Board hereby authorizes and directs the Designated Election Official to cancel the regular  
district election scheduled for the \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_, and declare the candidates elected at the  
close of business on the sixty-third day before the election, if at that time there were not more candidates for director  
than offices to be filled, including candidates filing affidavits of intent to be write-in candidates.

Adopted this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_, by the Board of Directors of the  
\_\_\_\_\_ District.

\_\_\_\_\_  
(president)

\_\_\_\_\_  
(secretary)

**NOTICE OF CANCELLATION OF REGULAR ELECTION  
BY THE DESIGNATED ELECTION OFFICIAL**

1-5-208(1.5), C.R.S.

**NOTICE IS HEREBY GIVEN** by the \_\_\_\_\_ District,  
\_\_\_\_\_ County, Colorado, that at the close of business on the sixty-third day  
before the election there were not more candidates for director than offices to be filled, including candidates filing  
affidavits of intent to be write-in candidates; therefore, the election to be held on \_\_\_\_\_,  
20 \_\_\_\_ is hereby canceled pursuant to 1-5-208, C.R.S.

The following candidates are declared elected:

	_____ year term
(name)	
	_____ year term
(name)	
	_____ year term
(name)	

\_\_\_\_\_  
(designated election official)

\_\_\_\_\_ District

\_\_\_\_\_  
(contact person for district)

\_\_\_\_\_  
(business address)

\_\_\_\_\_  
(telephone number)

**PROCEDURAL INSTRUCTIONS:** The designated election official, if instructed by resolution of the governing body either before or after the 63rd day before the election, shall cancel the election and by resolution declare the candidates elected.

This Notice of Cancellation is to be published one time, and posted at each polling place, in the office of the designated election official, and in the office of the county clerk and recorder of each county in which the special district is located.

The governing body shall notify the candidates that the election was canceled and that they were elected by acclamation. Send one copy to:

Division of Local Government  
1313 Sherman Street, Room 521  
Denver, CO 80203

**Provide a list of all current directors to the Division, including addresses, within 30 days after the election.**

**RESOLUTION  
CANCELLATION OF NOVEMBER BALLOT ISSUE/QUESTION ELECTIONS**

1-5-208(2), C.R.S.

**WHEREAS**, the Board of Directors of the District ("District") has duly called a ballot issue or ballot question election to be conducted on the \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_; and

**WHEREAS**, the only matter before the District's electors is the consideration of such ballot issue(s) or ballot question(s); and

**WHEREAS**, pursuant to Section 1-5-208, C.R.S., the Board is authorized to cancel such election upon certain conditions;

**NOW, THEREFORE, BE IT RESOLVED** by the Board of Directors of the \_\_\_\_\_ District that pursuant to C.R.S. 1-5-208(2), C.R.S.:

1. The election to be conducted on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before the eligible electors of the \_\_\_\_\_ District is hereby canceled.

2. The ballot issue(s) or ballot question(s) shall be deemed to have not been submitted to the District's eligible electors. Any and all votes cast on such ballot issue(s) or ballot question(s) shall be deemed invalid.

3. Notice of such cancellation shall be published and posted at each District polling place, and in the offices of the Designated Election Official for the District, the County Clerk and Recorder of each County in which the District is located, and filed with the Division of Local Government.

ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_, by the Board of Directors of the \_\_\_\_\_ District.

\_\_\_\_\_  
(president of board of directors)

**ATTEST:**

\_\_\_\_\_  
(secretary)

## CANCELLATION OF NOVEMBER BALLOT ISSUE/QUESTION ELECTIONS

1-5-208(2), C.R.S.

\_\_\_\_\_ DISTRICT

NOTICE IS HEREBY GIVEN by the Board of Directors of the \_\_\_\_\_  
\_\_\_\_\_ District, \_\_\_\_\_ County,  
Colorado, that the election to be conducted by the \_\_\_\_\_ District  
on the \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_, for consideration of ballot issue(s) or ballot question(s) is hereby  
canceled, pursuant to Section 1-5-208(2), C.R.S. Any and all votes cast on the ballot issue(s) or ballot question(s)  
shall not be counted and shall be deemed invalid.

\_\_\_\_\_ District  
By \_\_\_\_\_  
(secretary)

**PROCEDURAL INSTRUCTIONS:** This Notice of Cancellation is to be published one time, and posted at each polling place, in the offices of the Designated Election Official, County Clerk and Recorder for each county in which the District is located, and filed with the Division of Local Government.

## MAIL BALLOT SELF-AFFIRMATION (RETURN ENVELOPE)

1-7.5-107, C.R.S.

RECEIVED BY DESIGNATED  
ELECTION OFFICIAL

INITIALS: \_\_\_\_\_

TIME: \_\_\_\_\_

DATE: \_\_\_\_\_

DELIVERED BY:

NAME: \_\_\_\_\_

I state under penalty of perjury that I am an eligible elector; that my signature, name, and address are as shown on this envelope; that I have not and will not cast any vote in this election except by the enclosed ballot; that my ballot is enclosed in accord with the provisions of the “Uniform Election Code of 1992”.

DATE OF SIGNING: \_\_\_\_\_

SIGNATURE: \_\_\_\_\_

AFFIX LABEL HERE

## MAIL BALLOT SECRECY SLEEVE/ABSENTEE BALLOT INSERT

1-7.5-107(3.5)(a); 1-2-501(2) AND 1-8-113 C.R.S.

**TO ALL FIRST TIME VOTERS WHO HAVE REGISTERED TO VOTE BY MAIL BUT WHO HAVE NOT SUBMITTED THE REQUIRED PROOF OF IDENTIFICATION:**

### **SPECIAL INSTRUCTIONS:**

Below you will find the legal requirements for first time voters who register by mail. If you have not previously voted in an election in your county and you registered to vote by mail and did not submit the required proof of identification, you must submit a copy of one of the acceptable forms of identification (specified below) in the enclosed Return Envelope.

These identification requirements **DO NOT APPLY** to any person who is:

- Entitled to vote by absentee ballot under the federal “Uniformed and Overseas Citizens Absentee Voting Act”, 42 U.S.C. sec. 1973ff, et seq.;
- Provided the right to vote otherwise than in person under section (b)(2)(B)(ii) of the federal Voting Accessibility for the Elderly and Handicapped Act”, 42 U.S.C. sec 1973ff, et seq.; or
- Entitled to vote otherwise than in person under any other federal law

The approved forms of identification must show your address as being in the state of Colorado.

Do not include original documents with this envelope.

**ENCLOSE A COPY OF YOUR IDENTIFICATION, IN THE RETURN EVELOPE,  
NOT IN THE SECRECY SLEEVE OR SECRECY ENVELOPE**

---

### **FIRST TIME VOTERS WHO REGISTER BY MAIL**

If you registered to vote for the first time in your county by mail, and you have not previously voted in the county, a copy of one of the following forms of identification is required with your mail ballot or absentee ballot if you did not provide the information with your registration application:

- A valid Colorado driver's license; or
- A valid Colorado Department of Revenue identification card; or
- A valid U.S. passport; or
- A valid pilot's license with photograph issued by the Federal Aviation Administration; or
- A valid employee identification with a photograph issued by the U.S. Government, Colorado state government, or any county, municipality, board, authority, or other political subdivision of the state; or
- A valid U.S. Military Identification card with photograph; or
- A copy of a current utility bill, bank statement, government check, paycheck, or other governmental document that shows the name and address of the elector; or
- A valid Medicare or Medicaid card issued by the US Health Care Financing Administration; or
- A certified copy of a US birth certificate for the elector issued in the US; or
- Certified documentation of naturalization.

**IF YOU DID NOT SUBMIT PROOF OF IDENTIFICATION WITH OUR MAIL-IN REGISTRATION FORM, YOU WILL BE REQUIRED TO PROVIDE PROOF OF IDENTIFICATION USING THE TYPES OF IDENTIFICATION DESCRIBED ABOVE WITH YOUR VOTED MAIL OR ABSENTEE BALLOT.**

---

**PROCEDURAL INSTRUCTIONS:** For mail ballots, this document should be included in the mail ballot package mailed to voters. Once an absentee application is received, this document should be included with the absentee ballot that is mailed to the voter.

# APPLICATION FOR ABSENTEE VOTER BALLOT

## Special District Election

1-8-104(3), C.R.S.

**Applications will be accepted until the close of business on the Friday immediately preceding the election; except that, if the person wishes to receive the absentee ballot by mail, the application shall be filed no later than the close of business on the 11<sup>th</sup> day before the election.**

To the Designated Election Official of \_\_\_\_\_ District.

I, \_\_\_\_\_, whose date of birth is \_\_\_\_\_, am an eligible elector of the \_\_\_\_\_ District in the County of \_\_\_\_\_, State of Colorado, and my residence address is \_\_\_\_\_, and my mailing address is \_\_\_\_\_.

I am applying for an absentee ballot for use by me in voting at the election for Directors (or, if special election, state purpose) to be held on the \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_.

\_\_\_\_\_  
(signature) (name printed)

\_\_\_\_\_  
(date)

\_\_\_\_\_  
(address for absentee ballot to be mailed)

\*Witnessed By:

\_\_\_\_\_

### ADDRESS FOR ABSENTEE BALLOT TO BE MAILED:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\*Application shall be signed personally by the applicant. In case of applicant's inability to sign his/her name, the elector's mark shall be witnessed by another person.

### IMPORTANT

The Colorado Absent Voter Law requires that in order for your ballot to be counted it must be received by 7:00 p.m. the day of the election.

**PROCEDURAL INSTRUCTIONS: This application may be mailed or faxed to the designated election official.**



## ABSENTEE VOTER'S INSTRUCTION CARD

YOUR BALLOT **WILL NOT BE COUNTED** UNLESS THE SELF-AFFIRMATION ON THE RETURN ENVELOPE IS PROPERLY COMPLETED AND THE RETURN ENVELOPE ALONG WITH THE BALLOT ARE RECEIVED BY THE DESIGNATED ELECTION OFFICIAL OF THE DISTRICT NO LATER THAN 7:00 P.M. ON THE DAY OF THE ELECTION.

**PLEASE READ THE INSTRUCTIONS BELOW AND THE SELF AFFIRMATION ON THE OFFICIAL RETURN ENVELOPE BEFORE MARKING THE BALLOT.**

### **OFFICIAL INSTRUCTIONS:**

1. **DO NOT REMOVE STUB FROM YOUR BALLOT.**

2. If you are a first time voter who registered to vote by mail, but did not submit the required proof of identification, pay particular attention to the enclosed absentee ballot insert instructions. If required, ENCLOSE A **COPY** OF YOUR IDENTIFICATION, IN THE RETURN EVELOPE, **NOT** IN THE SECRECY ENVELOPE/SLEEVE

3. To vote be sure to review both sides of the ballot for content. Mark the ballot.

4. If more than the allowable number of marks are placed on the ballot for an office or ballot issue, the votes will not be counted for that office or ballot issue. EXAMPLE: "Vote for Two" means vote for no more than two (2) candidates in that race.

5. To cast a WRITE-IN VOTE, write the valid write-in candidate's name in the space provided under the appropriate office, IF ANY. If space for a write in candidate is not provided, there are no official write-in candidates for the office. (1-5-407(3), C.R.S.).

6. **DO NOT** remove the stub end from the ballot. **FOLD THE BALLOT SO THAT ONLY THE STUB IS VISIBLE.**

7. Sign and date the self-affirmation on the official return envelope. Law requires your signature and date of signing; if these items are not complete your ballot will not be counted.

8. Place the marked ballot inside the secrecy envelope in a manner that conceals the markings. Place the secrecy sleeve/envelope containing the ballot in the official return envelope. Seal the return envelope securely.

9. Mail or hand deliver your envelope to the Designated Election Official of the District. Ballots must be in the possession of the Designated Election Official **no later** than 7:00 p.m. on Election Day in order to be counted.

**PROCEDURAL INSTRUCTIONS:** These instructions should be included with ballot. In addition, Form B-16 shall also be included.

## ABSENTEE BALLOT SELF-AFFIRMATION (RETURN ENVELOPE)

1-8-114, C.R.S.

RECEIVED BY DESIGNATED  
ELECTION OFFICIAL

INITIALS: \_\_\_\_\_

TIME: \_\_\_\_\_

DATE: \_\_\_\_\_

DELIVERED BY:

NAME: \_\_\_\_\_

AFFIX LABEL HERE

I state under penalty of perjury that I am an eligible elector; that I reside at the address indicated on my application for an absentee ballot; that I have not and will not cast any vote in this election except by the enclosed ballot; and that my ballot is enclosed in accord with the provisions of the “Uniform Code of 1992.”

**SIGN HERE** →

DATE OF SIGNING: \_\_\_\_\_

SIGNATURE: \_\_\_\_\_

## RECORD OF ABSENTEE VOTER BALLOT APPLICATIONS

\_\_\_\_\_ ELECTION HELD \_\_\_\_\_, 20 \_\_\_\_  
(regular/special)

\_\_\_\_\_  
Name of Special District

Name of Voter (Write in Full and Identify Address to which Ballot is to be sent)	Precinct Number (if any)	Ballot Number	Date Application Received	Date Ballot Mailed	Date Ballot Returned	Ballot Not Returned or Rejected (State Which)	Date Ballot Returned Undeliverable

# APPLICATION FOR EMERGENCY ABSENTEE VOTER BALLOT

1-8-115, C.R.S.

To the Designated Election Official of the \_\_\_\_\_ District:

I, \_\_\_\_\_, whose date of birth is \_\_\_\_\_,

am an eligible elector of the \_\_\_\_\_ District

in the County of \_\_\_\_\_ Colorado and my residence address

is: \_\_\_\_\_.

I desire to vote at the election to be held on \_\_\_\_\_ 20 \_\_\_\_\_, and hereby apply to vote as an emergency absentee voter.

I am applying for an emergency absentee voter ballot because:

\_\_\_\_\_ I will be unable to attend the polls on election day due to confinement in a hospital or place of residence which occurred because of conditions arising after the last date to apply for an absentee ballot.

OR

\_\_\_\_\_ I am unable to go to the polls on election day because of conditions arising after the last date to apply for absentee ballots.

Please deliver an emergency absentee voter ballot for me to the following authorized representative:

Printed name: \_\_\_\_\_

Address: \_\_\_\_\_

I hereby acknowledge receipt of the above ballot for delivery to the above named elector.

(This is to be filled out by the authorized representative after he/she receives ballot)

Printed name: \_\_\_\_\_

Signature: \_\_\_\_\_

Address: \_\_\_\_\_

X \_\_\_\_\_  
VOTER SIGN HERE

## IMPORTANT

This request must be made to the Designated Election Official by 5:00 p.m. on the day of election and in order for your ballot to be counted the ballot must be in its completed return envelope and in the hands of the Designated Election Official by 7:00 p.m. on election day.

# REQUEST FOR REPLACEMENT BALLOT

(Absentee or Mail Ballot)

1-7.5-107(3)(d)(I), 1-8-111, C.R.S.

Date Received \_\_\_\_\_

TO: \_\_\_\_\_ Designated Election Official.

Date: \_\_\_\_\_

I, \_\_\_\_\_, Birth Date \_\_\_\_\_

,  
(print full name as registered)

am a registered and/or eligible elector of the \_\_\_\_\_ District

in the \_\_\_\_\_ County, Colorado and have previously applied for

a ballot for the regular/special election, \_\_\_\_\_.

(date of election)

I am requesting a replacement ballot because (check one):

\_\_\_\_\_ I never received the original ballot.

\_\_\_\_\_ I spoiled the original ballot.

I would like the replacement ballot mailed to me. I would like it mailed to:

\_\_\_\_\_  
(box number or number and street, city/town, state, zip)

**NOTE:** The replacement ballot will be mailed to you within 72 hours of the time that the designated election official receive this request in writing.

Affidavit: I have not voted the original ballot issued for the election indicated and I do not intend to vote at the election except by voting the replacement ballot.

X \_\_\_\_\_ (or) BY \_\_\_\_\_  
VOTER SIGN HERE

COLORADO LAW REQUIRES THAT IN ORDER FOR YOUR BALLOT TO BE COUNTED IT MUST REACH  
THE DESIGNATED ELECTION OFFICE BY 7:00 PM, TUESDAY, THE DAY OF ELECTION.

State of Colorado,

\_\_\_\_\_  
(name of political subdivision)

Subscribed and sworn to me

\_\_\_\_\_  
(designated election official)

(If Notary) this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_

SEAL

\_\_\_\_\_  
My Commission Expires

**ACCEPTANCE OF APPOINTMENT AND  
CERTIFICATION OF QUALIFICATION OF ELECTION JUDGE**

1-6-101, C.R.S.

This is to acknowledge acceptance of my appointment as an election judge and a member of the provisional ballot board, and to notify you that I will serve as such at the \_\_\_\_\_ election to be conducted on \_\_\_\_\_, 200 \_\_\_\_ within the \_\_\_\_\_ District:  
(month/day) (regular/special) (name of district)

I, \_\_\_\_\_, hereby certify that:  
(printed name of election judge)

- (a) I am an eligible elector who resides in the District, or who has been exempted from the residency requirement; and am willing to serve as an election judge;
- (b) I am physically and mentally able to perform the required tasks of an election judge;
- (c) I will attend a class of instruction concerning the tasks of an election judge;
- (d) I have never been convicted of election fraud, any other election offense, or fraud; and
- (e) I am not a candidate whose name appears on the ballot, nor a member of the immediate family, related by blood or marriage to the second degree, of a candidate whose name appears on the ballot.

I acknowledge that if a person appointed as an election judge fails to file this Acceptance form within seven (7) days after the Certification of Appointment and Acceptance forms were mailed or fails to attend a class of instruction prior to the election, the designated election official may determine that a vacancy has been created.

PRINTED NAME:

\_\_\_\_\_

SIGNATURE:

\_\_\_\_\_

ADDRESS:

\_\_\_\_\_

DATE: \_\_\_\_\_

**PROCEDURAL INSTRUCTIONS: Sign and mail/deliver within 7 days to the Designated Election Official of the District.**

## CERTIFICATE OF APPOINTMENT OF JUDGES OF ELECTION

1-6-105, 1-6-106, 1-6-108, 1-6-111(4), C.R.S.

The Designated Election Official shall **appoint not less than two election judges** for each precinct.

Polling Place No. (if any) \_\_\_\_\_

This is to certify that the following have been appointed to serve as judges of election and members of the provisional ballot board:

\_\_\_\_\_  
(name) (address)  
Date acceptance returned: \_\_\_\_\_  
Date attended judges class of instruction: \_\_\_\_\_

\_\_\_\_\_  
(name) (address)  
Date acceptance returned: \_\_\_\_\_  
Date attended judges class of instruction: \_\_\_\_\_

\_\_\_\_\_  
(name) (address)  
Date acceptance returned: \_\_\_\_\_  
Date attended judges class of instruction: \_\_\_\_\_

\_\_\_\_\_  
(name) (address)  
Date acceptance returned: \_\_\_\_\_  
Date attended judges class of instruction: \_\_\_\_\_

Certified this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_.

\_\_\_\_\_  
(signature) Designated Election Official

Supply Judge: \_\_\_\_\_ 1-6-107(3), C.R.S.  
(name)

Date of Notification of Appointment: \_\_\_\_\_  
Date Attended Special School of Instruction: \_\_\_\_\_

**PROCEDURAL INSTRUCTIONS: The Designated Election Official shall file a copy in his/her office.**

## OATH OF JUDGE OF ELECTION

1-6-114, C.R.S.

I, \_\_\_\_\_, do solemnly swear (or affirm) that I am a citizen of the United States and the State of Colorado; that I am an eligible elector of the \_\_\_\_\_ District or a registered elector of the state; that I will perform the duties of judge according to law, and to the best of my ability; that I will studiously endeavor to prevent fraud, deceit, and abuse in conducting the same; that I will not try to ascertain how any elector voted, nor will I disclose how any elector voted if in the discharge of my duties as judge such knowledge shall come to me, unless called upon to disclose the same before some court of justice; that I have never been convicted of any election fraud, any other election offense or fraud and that I will not disclose the result of the votes until the polls have closed and the results are formally announced by the designated election official.

\_\_\_\_\_  
judge of election (signature)

State of Colorado

County of \_\_\_\_\_

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

\_\_\_\_\_  
(judge of election)

**PROCEDURAL INSTRUCTIONS:** The oath is administered at the morning of the election at the polling place by other judges. Attach to the poll books or registration records.



# CERTIFICATE OF APPOINTMENT OF WATCHER

1-7-107, C.R.S.

## TO THE DESIGNATED ELECTION OFFICIAL

Polling Place No. \_\_\_\_\_

\_\_\_\_\_ DISTRICT,

\_\_\_\_\_ COUNTY, COLORADO

I hereby appoint as watcher \_\_\_\_\_ who is an eligible elector in the  
\_\_\_\_\_ District.

Certified this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

\_\_\_\_\_  
(signature of candidate for director or proponent or opponent of a ballot Issue or  
ballot question who is appointing the watcher)

The above named person has been appointed as the watcher of election for (or against)

\_\_\_\_\_  
(list candidate's name or issue or question)

## OATH OF WATCHER

1-7-108(1), C.R.S.

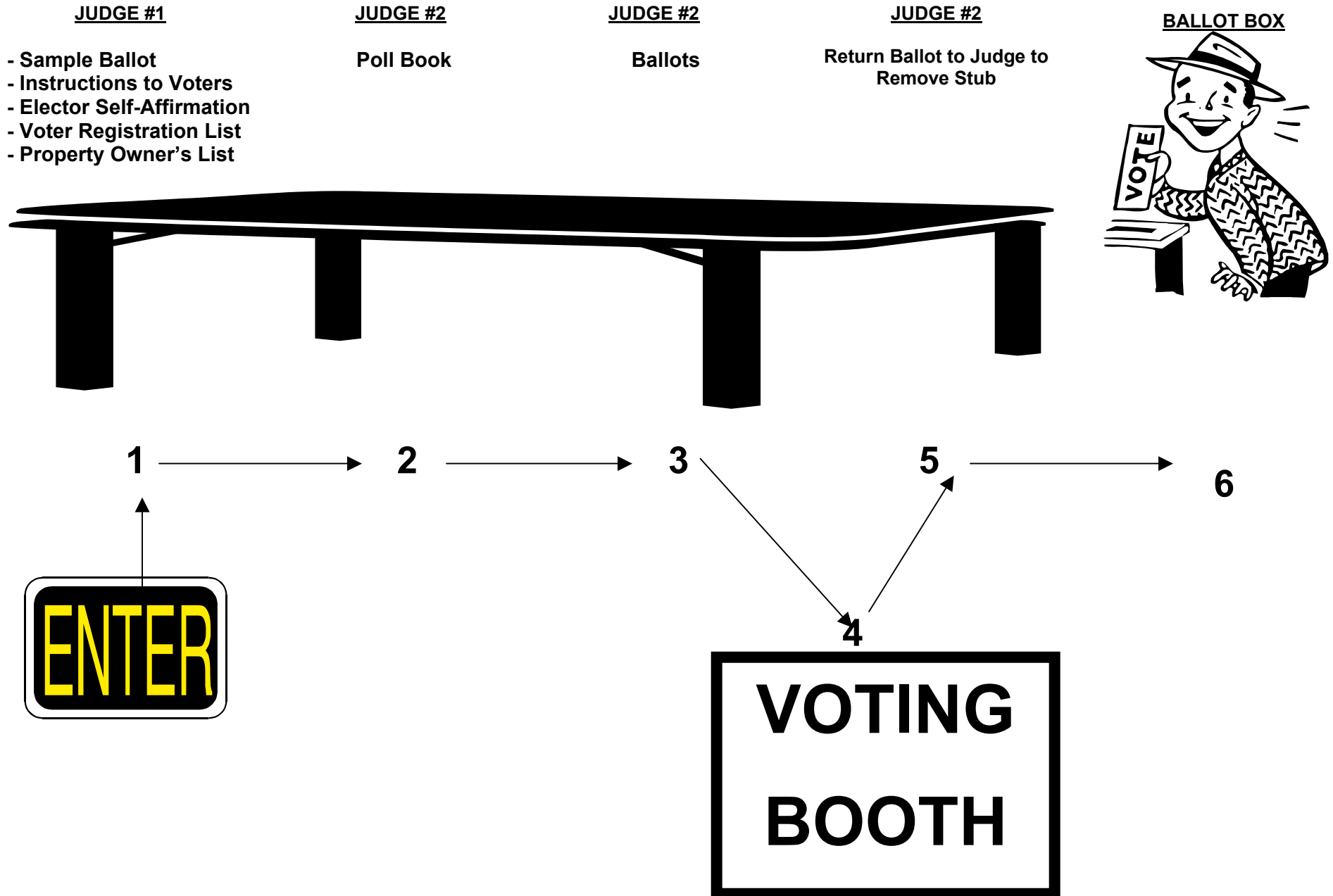
I, \_\_\_\_\_, do solemnly swear (or affirm) that I am an eligible elector of the \_\_\_\_\_ District and am qualified to serve as a watcher at this \_\_\_\_\_ election for such District; that I will perform the duties of watcher according to law; that my name has been submitted to the Designated Election Official as a watcher for this election; and that I will not in any manner make known to anyone the result of counting votes until the polls have closed.

\_\_\_\_\_  
(signature of watcher)

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

\_\_\_\_\_  
(signature of election judge  
administering the oath)

## POLLING PLACE DIAGRAM



## ITEMS TO BE POSTED AT THE POLLING PLACE

1-5-504.5, C.R.S.

The following shall be posted at each polling place on or before election day:

**Polling Place Sign** visible from the outside of the closest entrance to the polling place.

**No Electioneering** permitted within 100 feet of the polling place.

**Instruction Cards** for the guidance of eligible electors.

**Sample Ballots**

**An Explanation of the Procedures** that govern the provision of voting assistance to electors with disabilities who require such assistance.

# **NO ELECTIONEERING**

**WITHIN 100 FEET OF ANY BUILDING IN  
WHICH A POLLING PLACE IS  
LOCATED**

**(1-13-714, C.R.S.)**

## INSTRUCTION CARDS

1-5-504, C.R.S.

The designated election official of each political subdivision shall furnish to the election judges a sufficient number of instruction cards for the guidance of eligible electors in preparing their ballots.

The election judges shall post at least one of the cards in each polling place upon the day of the election.

The cards shall be printed in large, clear type and shall contain full instructions to the eligible electors as to what should be done:

- (a) To obtain ballots for voting;
- (b) To prepare the ballots for deposit in the ballot box;
- (c) To obtain a new ballot in the place of one spoiled by accident or mistake;
- (d) To obtain assistance in marking ballots; and
- (e) To vote for a write-in candidate.

# NOTICE

## Voting Assistance for Electors with Disabilities

Colorado law provides that a voter has a legal right to assistance in voting if assistance is needed because of blindness or other physical disability or inability to read or write. The following procedures apply:

1. The voter must tell one of the election judges that he or she needs assistance.
2. The voter may be assisted by any election judge or by any eligible elector selected by the voter.
3. The person selected must complete a “voter assistance/disabled voter self-affirmation form” if all of the following apply:
  - the person selected is not an election judge, and
  - the person selected is not the spouse, parent, grandparent, sibling, or child of the voter requesting assistance, and
  - the person selected has previously assisted any other voter at the same election in the same precinct.

The self affirmation form states, “I \_\_\_\_\_, certify that I am the individual chosen by the disabled elector to assist the disabled elector in casting a ballot.”

4. The person selected may provide any assistance needed by the voter, including entering the voting booth and preparing the ballot or operating the voting machine.
5. The person providing assistance shall not seek to persuade or induce the voter to vote in a particular manner.
6. The election judges shall record the name of each eligible elector assisted and the name of each person assisting by making an entry on the poll book or list of eligible electors (or by making an entry on the signature card when preprinted signature cards are used in the place of a poll book and list of eligible electors).

REFERENCE: SECTIONS 1-5-504.5 (I), 1-7-111 AND 1-7-113 COLORADO REVISED STATUTES

POLL BOOK

1-7-109, 1-7-111(3), C.R.S.

An election held at \_\_\_\_\_ in Polling Place No. \_\_\_\_\_, in the \_\_\_\_\_ District  
in the County of \_\_\_\_\_, on the \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_, at which time  
\_\_\_\_\_ were judges of said election and  
\_\_\_\_\_ was the Designated Election Official for said election. The following named persons voted in  
regular succession:

No. On Ballot	Name of Voter	Name of Person Assisting, If Any
1.	_____	_____
2.	_____	_____
3.	_____	_____
4.	_____	_____
5.	_____	_____
6.	_____	_____
7.	_____	_____
8.	_____	_____
9.	_____	_____
10.	_____	_____
11.	_____	_____
etc.		

Total No. of Votes Cast: \_\_\_\_\_



# SELF-AFFIRMATION OF ELECTOR

To be used for: 1-7-103(2), 1-7-104, 1-7-110(1),  
32-1-103(5), 32-1-806, C.R.S.  
Use with absentee ballot  
and for Voter Signature Card

\_\_\_\_\_ DISTRICT  
\_\_\_\_\_ COUNTY, COLORADO

I do solemnly swear or affirm that I, \_\_\_\_\_  
(print name)  
who reside at \_\_\_\_\_ am an eligible elector  
(address)  
of this \_\_\_\_\_ District and desire to vote at  
(name of special district)  
this \_\_\_\_\_ election.  
(regular/special)

I am registered to vote in general elections in the State of Colorado and I am qualified to vote in this special district election as: (Indicate applicable phrase by placing a cross (X) on the line preceding the appropriate words.)

- \_\_\_\_\_ A resident of the district (or the area to be included within the special district) for not less than thirty days; or
- \_\_\_\_\_ The owner of taxable real or personal property situated within the boundaries of the special district (or the area to be included within the special district); or
- \_\_\_\_\_ A person who is obligated to pay taxes under a contract to purchase taxable property in the special district (or the area to be included within the special district); or
- \_\_\_\_\_ The spouse of \_\_\_\_\_ who is the owner of taxable real or personal property situated within the boundaries of the special district (or the area to be included within the special district).

I have not voted previously at this election, nor will I cast a vote by any other means in this election.

\_\_\_\_\_ (date) \_\_\_\_\_ (elector's signature)

## NOTICE OF PERJURY

**ANY PERSON WHO AFFIRMS WILLFULLY, CORRUPTLY, and FALSELY that he/she is an elector commits perjury and is punishable according to law.**

**1-13-104, C.R.S.**

---

(signature)


---

(date)

**PROCECURAL INSTRUCTIONS:** Print this notice on back of or attach to the “self-affirmation of elector” form (See Form B-35). This document is to be given to a person desiring to vote whose name does not appear on the list of registered voters or the property owners list and who does not obtain a certificate or verbal verification from the appropriate official. It is suggested that the individual sign or initial the notice which then should be attached to the signed affidavit.

**[SAMPLE BALLOT AND INSTRUCTIONS]  
[DO NOT USE THIS FORM AS YOUR BALLOT]**

No. 007 (ONE INCH STUB) 

No. 007 (ONE INCH DUPLICATE STUB) 

OFFICIAL BALLOT FOR THE \_\_\_\_\_ DISTRICT

\_\_\_\_\_  
(date of election)

\_\_\_\_\_  
(facsimile of signature of the designated election official of the district)

To vote, place cross mark (X) at the right of the name of each candidate and each ballot issue and ballot question.  
For write-in candidate, print name on blank line.

1-5-407(2), C.R.S.

**Vote for not more than \_\_\_\_\_ Director(s), Four-Year Term(s)**  
(list established by lot drawing)

Candidate A	_____
Candidate B	_____
Candidate C	_____
_____ *	

**Vote for not more than \_\_\_\_\_ Director(s), Two-Year Term(s)\*\***  
(list established by lot drawing)

Candidate D	_____
-------------	-------

Ballot Issue/Ballot Question  
(enter text of ballot issue or question here)

YES	_____
NO	_____

**PROCEDURAL INSTRUCTIONS:** \*Only provide a blank line for write-in candidates if there are any write-in candidates. 1-5-407(3), C.R.S.) \*\* Use only when a vacancy has been filled by appointment and any remaining unexpired portion of term must be filled by election.

## **PROVISIONAL BALLOT AFFIDAVIT & ENVELOPE**

1-9-304.5, C.R.S

**This important document is only available as a PDF file. Go to the Election Forms.pdf file on the computer disc to access this file**

(BACK SIDE OF ENVELOPE)

**VOTER INFORMATION AND INSTRUCTIONS**

**SEAL VOTED BALLOT IN THIS ENVELOPE  
AND RETURN IT TO THE ELECTION JUDGE.  
THE ENCLOSED BALLOT WILL BE OPENED AT THE ELECTION OFFICE.**

You have been asked to vote a provisional ballot due to at least one of the following reasons:

1. YOU WERE UNABLE TO PROVIDE IDENTIFICATION AS REQUIRED BY LAW.
2. YOUR VOTING ELIGIBILITY CANNOT BE VERIFIED BY THE ELECTION JUDGE TODAY. The Designated or Coordinated Election Official's office will check the registration records. If further research determines you are eligible to vote in this precinct, your provisional ballot will be counted.
3. YOU WERE PREVIOUSLY REGISTERED IN THE STATE OF COLORADO AND YOU HAVE MOVED WITHIN THE STATE BUT DID NOT RE-REGISTER. Your prior registration will be verified by the Designated or Coordinated Election Official's office before your provisional ballot will be counted. Your registration will then be updated with your current address.

**IMPORTANT!!**

- If you do not **complete and sign the affidavit** on the other side of this envelope, your provisional ballot will not be counted.
- If you have already requested an **absentee ballot** for this election, you must vote that ballot. You may not vote a provisional ballot.
- If you have moved into the State of Colorado from outside of the State of Colorado within 29 days before the election OR moved into the state and did not register before the registration deadline, your provisional ballot will not be counted.

**PROVISIONAL BALLOTS SHALL NOT BE INCLUDED IN ANY UNOFFICIAL RESULTS.**

**VOTING MORE THAN ONCE IS A FELONY!**

## DISABLED VOTER ASSISTANCE

1-7-111, C.R.S.

Any person who assists any eligible elector to cast his or her ballot shall first complete the following voter assistance/disabled voter self-affirmation form:

**"I, \_\_\_\_\_, shall not in any way attempt to persuade or induce the elector to vote in a particular manner nor will I cast the elector's vote other than as directed by the elector whom I am assisting."**

\_\_\_\_\_  
(signature)

If the disabled elector is able to read and write, he or she shall complete the voter assistance/disabled voter self-affirmation form. The form shall provide:

**"I, \_\_\_\_\_, affirm that I am an eligible elector in this political subdivision located in the county of \_\_\_\_\_ state of Colorado; that I shall vote today at this polling place. I further affirm that I have not, nor will I, cast a vote by any other means in this election."**

\_\_\_\_\_  
(signature)

## NON-ENGLISH VOTER ASSISTANCE

1-7-112, C.R.S.

Any person who assists any eligible elector to cast his or her ballot shall first complete the following voter assistance/disabled voter self-affirmation form:

**"I, \_\_\_\_\_ shall not in any way attempt to persuade or induce the elector to vote in a particular manner nor will I cast the elector's vote other than as directed by the elector whom I am assisting."**

---

(signature)

## CERTIFICATE OF CHALLENGER

A person's right to vote at a polling place or in an election may be challenged by an election judge , a watcher or `any other eligible elector of the District. (1-9-201, C.R.S.)

### OATH OF CHALLENGER

Name of Person Challenged \_\_\_\_\_

Basis for Challenge (a) Citizenship \_\_\_\_\_ (b) Residence in State \_\_\_\_\_ (c) Residence in District \_\_\_\_\_

(d) Age \_\_\_\_\_ (e) Property Ownership \_\_\_\_\_ (f) Other \_\_\_\_\_.

(please explain)

Under penalty of perjury in the second degree as specified in 1-13-104, C.R.S., I swear or affirm that to the best of my belief, the person being challenged does not fulfill the requirements of an eligible elector of the

\_\_\_\_\_ District.

\_\_\_\_\_  
(signature of challenger )

Oath administered by \_\_\_\_\_

(judge of election)

Polling Place# \_\_\_\_\_ Date \_\_\_\_\_ , 20 \_\_\_\_ .

### WITHDRAWAL OF CHALLENGE

I, \_\_\_\_\_, hereby withdraw the above challenge.  
(print name)

\_\_\_\_\_  
(signature of challenger)



## CERTIFICATE OF CHALLENGED VOTER

1. A judge of election may require a challenged voter to answer any pertinent questions concerning his/her qualifications as an elector. (1-9-203, C.R.S.) An election judge shall tender to the challenged voter the following OATH OR AFFIRMATION:

**"I DO SOLEMNLY SWEAR OR AFFIRM THAT I WILL FULLY AND TRULY ANSWER ALL QUESTIONS THAT ARE PUT TO ME CONCERNING MY PLACE OF RESIDENCE AND MY QUALIFICATIONS AS AN ELIGIBLE ELECTOR AT THIS ELECTION." (1-9-203, C.R.S.)**

2. If the person is challenged as not eligible because the person is not a citizen, an election judge shall ask the following question:

(a) Are you a citizen of the United States? \_\_\_\_\_

3. If the person is challenged as not eligible because the person has not resided in this state and district for thirty days immediately preceding the election, an election judge shall ask the following questions:

(a) Have you resided in this state and district for the thirty days immediately preceding this election? \_\_\_\_\_

(b) Have you been absent from this state during the thirty days immediately preceding this election, and during that time have you maintained a home or domicile elsewhere? \_\_\_\_\_

(c) If so, when you left, was it for a temporary purpose with the intent of returning, or did you intend to remain away? \_\_\_\_\_

(d) Did you, while absent, look upon and regard this state as your home? \_\_\_\_\_

(e) Did you, while absent, vote in any other state or any territory of the United States? \_\_\_\_\_

4. If the person is challenged as not eligible because the person is not eighteen years of age or older, an election judge shall ask the following question:

(a) To the best of your knowledge and belief, are you eighteen years of age or older? \_\_\_\_\_

5. If the person is challenged as not eligible because the person is not a property owner or the spouse of a property owner, an election judge shall ask the following questions:

(a) Are you a property owner or the spouse of a property owner in this political subdivision and therefore eligible to vote? \_\_\_\_\_

(b) What is the address or, for special district elections where an address is not available, the location of the property which entitles you to vote in this election?

\_\_\_\_\_

6. An election judge shall put all other questions to the person challenged as may be necessary to test the person's qualifications as an eligible elector at the election.

7. If the person challenged answers satisfactorily all of the questions the person shall sign on the challenge form after the printed questions. The election judge shall indicate in the proper place on the challenge form whether the challenge was withdrawn or whether the challenged elector refused to answer the questions and left the polling place without voting.

\_\_\_\_\_  
(printed name of challenged voter)

\_\_\_\_\_  
(signature of challenged voter)

Oath Administered by: \_\_\_\_\_

(judge of election)

\_\_\_\_\_, District, \_\_\_\_\_, 20 \_\_\_\_.

Polling Place No. \_\_\_\_\_

## CERTIFICATE OF CHALLENGED VOTER (CONTINUED)

### JUDGE: FILL IN THE FOLLOWING:

1. Was challenge withdrawn? \_\_\_\_\_
2. Did challenged voter refuse to answer questions concerning his/her residence and qualifications? \_\_\_\_
3. Did challenged voter leave polling place without voting? \_\_\_\_\_

If the challenge is not withdrawn and the challenged person has answered all questions put to him/her, he/she shall be allowed to vote, and the judges of election shall write "challenged" on the poll book after the person's name. **If the person refuses to answer the questions, his/her vote shall be rejected. (1-9-205, C.R.S.)**

### OATH OF CHALLENGED REGISTERED VOTER

If the challenge is not withdrawn and the challenged person has answered all questions put to him/her, an election judge shall administer the following oath:

**I DO SOLEMNLY SWEAR OR AFFIRM THAT I AM A CITIZEN OF THE UNITED STATES OF THE AGE OF EIGHTEEN YEARS OR OLDER; THAT I HAVE BEEN A RESIDENT OF THIS STATE FOR THIRTY DAYS IMMEDIATELY PRECEDING THIS ELECTION AND HAVE NOT MAINTAINED A HOME OR DOMICILE ELSEWHERE; THAT I AM A REGISTERED ELECTOR; THAT I AM ELIGIBLE TO VOTE AT THIS ELECTION; AND THAT I HAVE NOT PREVIOUSLY VOTED AT THIS ELECTION. (1-9-204, C.R.S.)**

Name of Challenged Person \_\_\_\_\_

\_\_\_\_\_  
(signature of challenged voter)

Oath Administered by \_\_\_\_\_  
(judge of election)

\_\_\_\_\_  
District, \_\_\_\_\_, 20 \_\_\_\_.

Polling Place No. \_\_\_\_\_

**BALLOT ACCOUNTING FORM**

1-7-308, C.R.S.

As the election judges open and read the ballots, other election judges shall carefully enter the votes for each of the candidates, each ballot issue and each ballot question as received on the accounting forms furnished by the designated election official for that purpose. The names of the candidates shall be placed on the accounting forms in the order in which they appear on the official ballots.

Total Number of Provisional Ballot Envelopes (uncounted): \_\_\_\_\_

CANDIDATES	COUNT	TOTAL

Number of Defective Ballots: \_\_\_\_\_

FOR QUESTION A	AGAINST QUESTION A
TOTALS:	TOTALS:

Number of Defective Ballots: \_\_\_\_\_

FOR QUESTION B	AGAINST QUESTION B
TOTALS:	TOTALS:

Number of Defective Ballots: \_\_\_\_\_

## JUDGES' CERTIFICATE OF ELECTION RETURNS

1-7-601, C.R.S.

**IT IS HEREBY CERTIFIED** by the undersigned, who conducted the election held in the \_\_\_\_\_ District, (in polling place no. \_\_\_\_\_,) in the county of \_\_\_\_\_ and State of Colorado, on the \_\_\_\_\_ day of \_\_\_\_\_, in the year 20 \_\_\_\_\_, that after qualifying by swearing and subscribing to their Oaths of Office, they opened the polls at 7:00 a.m., and that they kept the polls open continuously until the hour of 7:00 p.m. on said date, after which they counted the ballots cast for directors of said District and for any ballot issues and ballot questions submitted.

That the votes cast for Director of said District, including write-in candidates, for a 4-year term were as follows:

Candidate for Director	Number of Votes Cast
_____	_____ (numeric & spelled out)
_____	_____ (numeric & spelled out)
_____	_____ (numeric & spelled out)
_____	_____ (numeric & spelled out)

That the votes cast for Director of said District, including write-in candidates, for a 2-year term were as follows:

Candidate for Director	Number of Votes Cast
_____	_____ (numeric & spelled out)
_____	_____ (numeric & spelled out)
_____	_____ (numeric & spelled out)

That the votes cast for and against each ballot issue and ballot question submitted were as follows:

	YES	NO
Ballot Issue\Question A	_____ (numeric & spelled out)	_____
Ballot Issue\Question B	_____ (numeric & spelled out)	_____
Etc.	_____	_____

## JUDGES' CERTIFICATE OF ELECTION RETURNS, continued

Recommended for Polling Place Election Only

1-7-601(2), C.R.S.

**NOTE: You will need to use Form B-48 when holding a mail ballot election.**

It is hereby identified and specified that:

Numeric & Spelled Out

Total Number Ballots Received from the Designated Election Official:  
(including absentee ballots)

( ) \_\_\_\_\_

Total number of ballots voted:  
(including provisional ballots (if there are 25 or less) and absentee ballots)

( ) \_\_\_\_\_

Unofficial ballots voted:  
(ballots used if the originals are destroyed)

( ) \_\_\_\_\_

Substitute ballots voted:  
(if new ballots have to be created or sample ballots used because  
of an insufficient number being available on site)

( ) \_\_\_\_\_

Ballots delivered to electors:

( ) \_\_\_\_\_

Spoiled ballots:  
(ballots spoiled by electors)

( ) \_\_\_\_\_

Ballots rejected for insufficient information:  
(absentee ballots)

( ) \_\_\_\_\_

Challenged ballots:

( ) \_\_\_\_\_

Ballots not delivered to electors:  
(those remaining on the ballot pad)

( ) \_\_\_\_\_

Provisional ballot envelopes (if over 25)

( ) \_\_\_\_\_

Ballots returned to the Designated Election Official:

( ) \_\_\_\_\_

**(ALL UNUSED BALLOTS, SPOILED BALLOTS AND STUBS OF BALLOTS SHALL BE RETURNED WITH THIS STATEMENT)**

**Certified by us:**

\_\_\_\_\_, Election Judge

\_\_\_\_\_, Election Judge

\_\_\_\_\_, Election Judge

\_\_\_\_\_, 20\_\_\_\_\_  
(date)

Polling Place Number if Applicable: \_\_\_\_\_

# JUDGES' CERTIFICATE OF ELECTION RETURNS

Recommended for Mail Ballot Elections

1-7.5-107 C.R.S.

It is hereby identified and specified that:

Numeric & Spelled Out

Number of ballots sent out:

( ) \_\_\_\_\_

Number of ballots returned:

( ) \_\_\_\_\_

Number of undeliverable ballots  
(returned by the Post Office)

( ) \_\_\_\_\_

Number of replacement ballots issued:  
(a ballot requested by an eligible elector if the ballot was destroyed, spoiled,  
lost or for some reason not received)

( ) \_\_\_\_\_

Number of replacement ballot returned:

( ) \_\_\_\_\_

Number of absent voter ballots issued:

( ) \_\_\_\_\_

Number of absent voter ballots returned:

( ) \_\_\_\_\_

Number of return-verification envelopes in non-compliance:

( ) \_\_\_\_\_

Number of spoiled ballots returned:

( ) \_\_\_\_\_

Number of unused ballots:

( ) \_\_\_\_\_

Number of defective ballots:

( ) \_\_\_\_\_

Number of first time voter ballots returned without adequate identification

( ) \_\_\_\_\_

**(ALL UNUSED BALLOTS, SPOILED BALLOTS AND STUBS OF BALLOTS SHALL BE RETURNED WITH THIS STATEMENT.)**

**Certified by us:**

\_\_\_\_\_, Election Judge

\_\_\_\_\_, Election Judge

\_\_\_\_\_, Election Judge

\_\_\_\_\_, 20\_\_\_\_\_  
(date)

## JUDGES' UNOFFICIAL ABSTRACT OF VOTES

1-7-602, C.R.S.

**NOTICE TO THE PUBLIC:** State law requires that provisional ballots cast in any election are to be verified. These returns do not include properly verified votes cast by provisional ballot. Therefore, these are the UNOFFICIAL returns of votes cast. For informational purposes, the District has up to seven (7) days subsequent to the date of the election in which to verify and count eligible provisional ballots.

For an election held for \_\_\_\_\_ District on  
\_\_\_\_\_, 20\_\_\_\_\_.

Total number of provisional ballot envelopes (uncounted): \_\_\_\_\_

Ballots counted for the following candidates:

Candidate	Votes Counted
_____	_____
_____	_____
_____	_____
_____	_____

Ballots counted for and against each ballot issue and ballot question as follows:

Ballot Question/Issue A:  
(include ballot title)

Yes

No

\_\_\_\_\_

\_\_\_\_\_

Ballot Question/Issue B:  
(include ballot title)

Yes

No

\_\_\_\_\_

\_\_\_\_\_

By:

\_\_\_\_\_, Election Judge

\_\_\_\_\_, Election Judge

**PROCEDURAL INSTRUCTIONS:** This abstract shall be made by the election judges and posted in a conspicuous place which can be seen from the outside of the polling place. This abstract is to be posted immediately upon completion of the counting and may be removed at any time after 48 hours following the election.

## RECEIPT FOR RETURN OF ELECTION MATERIALS

\_\_\_\_\_, 20 \_\_\_\_

Received from \_\_\_\_\_  
(name)

Supply Judge of Election of \_\_\_\_\_ District

Election Polling Place No. \_\_\_\_\_,

\_\_\_\_\_ Election Returns

\_\_\_\_\_ Ballot Box

\_\_\_\_\_ Poll Book

\_\_\_\_\_ Provisional Ballot Envelopes

\_\_\_\_\_ Copies of Identification

\_\_\_\_\_ All Other Election Materials

\_\_\_\_\_  
(designated election official)

\_\_\_\_\_ District

\_\_\_\_\_ County, Colorado



## PROVISIONAL BALLOT LOG

\_\_\_\_\_ District

\_\_\_\_\_ Election \_\_\_\_\_  
(regular/special) (date)

BALLOT STUB NO.	VOTER NAME	Absentee ballot requested (check one)	VERIFICATION OF ELECTOR'S VOTER REGISTRATION (check all three databases)			acceptance code	rejection code
			County Voter Records License	Sec of State	Drivers		
No. _____ -		Yes ____ No ____					
No. _____ -		Yes ____ No ____					
No. _____ -		Yes ____ No ____					
No. _____ -		Yes ____ No ____					

## Information for Provisional Ballot Log

The provisional ballot shall not be counted if any one of the following are true:

- a) The elector was not registered by the deadline in the State of Colorado;
- b) The affidavit was not signed;
- c) The elector was not eligible to vote in such election

### ACCEPTANCE CODES:

OK Reviewed and countable; all criteria met and ballot will be counted.

### REJECTION CODES:

ANS Affidavit not signed

INC Required information is incomplete

NPR Elector not previously registered; elector indicated registration in another Colorado county, but that county does not show a record of voter's registration.

NR Voter did not register by the deadline; there is no Colorado record

EE Provisional ballot envelope is empty

NE Elector not eligible to vote in election

## JUDGES' EXPENSE BILL - PAY SHEET

To be filled out and returned to the designated election official with all other election materials.

\_\_\_\_\_ DISTRICT

STATE OF COLORADO

Claimants Name & Mailing Address	Service	Amount Claimed	Total
TO:  _____	Judge of Election  _____		
	Social Security Number _____		
TO:  _____	Judge of Election  _____		
	Social Security Number _____		
TO:  _____	Judge of Election  _____		
	Social Security Number _____		
TO:  _____	Judge of Election  _____		
	Social Security Number _____		
TO:  _____	Judge of Election  _____		
	Social Security Number _____		
TO:  _____	Supply Judge of Election  _____		
	Social Security Number _____		

We, the undersigned Judges of Election in said \_\_\_\_\_  
 District, certify that we served as Judges of Election at the \_\_\_\_\_ Election on  
 \_\_\_\_\_, 20\_\_\_\_.

(regular or special)

\_\_\_\_\_  
 (signature) (signature)

\_\_\_\_\_  
 (signature) (signature)

## OATH OF CANVASSER

1-10-201(5), C.R.S.

I, \_\_\_\_\_, do solemnly swear (or affirm) that I am a registered elector in the county of \_\_\_\_\_ and of the State of Colorado and that I will faithfully perform the duties required of a member of the canvass board.

\_\_\_\_\_  
(canvasser signature)

**STATE OF COLORADO**

)

**COUNTY OF** \_\_\_\_\_

) ss.

)

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_,

by \_\_\_\_\_.

\_\_\_\_\_  
(designated election official)

# CANVASSERS ABSTRACT OF VOTES

1-10-203, C.R.S.

For an election held for \_\_\_\_\_ District on  
\_\_\_\_\_, 20\_\_\_\_\_.

Ballots counted for the following candidates:

Candidate	Votes Counted
_____	_____
_____	_____
_____	_____
_____	_____

Ballots counted for and against each ballot issue and ballot question as follows:

Ballot Question/Issue A:  
(include ballot title)

Yes

No

\_\_\_\_\_

\_\_\_\_\_

Ballot Question/Issue B:  
(include ballot title)

Yes

No

\_\_\_\_\_

\_\_\_\_\_

By:

\_\_\_\_\_, Designated Election Official

\_\_\_\_\_, Canvasser

\_\_\_\_\_, Canvasser

**PROCEDURAL INSTRUCTIONS:** No later than 7 days after the election, the canvassers shall meet, survey the returns, issue a certified statement of results, and make out abstracts of votes for each office. The purpose of this canvass is to verify the returns. **DO NOT RECOUNT BALLOTS.**

**BOARD OF CANVASSERS CERTIFICATE OF  
ELECTION RESULTS FOR THE REGULAR ELECTION  
HELD \_\_\_\_\_, 20\_\_\_\_**

1-11-103 and 32-1-104(1), C.R.S.

\_\_\_\_\_DISTRICT

\_\_\_\_\_COUNTY, COLORADO

Each of the undersigned members of the board of canvassers of the \_\_\_\_\_  
\_\_\_\_\_ District certifies that the following is a true and correct statement of the results  
of the Regular Election for the above-named District, at which time the eligible electors of the District voted as  
indicated on the attached Judges' Certificate of Election Returns, and as a result of which the eligible electors elected  
to office the following Directors:

**For Each Candidate Elected to Office:**

Name	Address	Term
1.		
2.		
3.		
4.		
etc.		

**For Each Question/Issue Submitted: (Attach copy of ballot question)**

Number of votes for: \_\_\_\_\_

Number of votes against: \_\_\_\_\_

(Signed) \_\_\_\_\_  
(designated election official)

(Signed) \_\_\_\_\_  
(canvasser)

(Signed) \_\_\_\_\_  
(canvasser)

\_\_\_\_\_  
(contact person for the district)

\_\_\_\_\_  
(business address)

\_\_\_\_\_  
(telephone number)

**PROCEDURAL INSTRUCTIONS:** Prepare and deliver a Certificate of Election to those candidates receiving the highest number of votes. Deposit 1 copy with the Clerk and Recorder of each county in which the special district is located. This must be available for public inspection in the office of the Designated Election Official. Send 1 copy to: Division of Local Government, 1313 Sherman Street, Room 521, Denver, CO 80203. Provide a list of all current directors to the Division, including addresses, within 30 days after the election.

STATE OF COLORADO,

COUNTY

DISTRICT

(name of special district)

about to enter

(signature)

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

By: \_\_\_\_\_  
(person authorized to administer oaths, i.e.  
County Clerk and Recorder, Clerk of  
the Court, any other person authorized  
to administer oaths or Chairman of the  
Board of Directors)

STATE OF COLORADO )  
 ) ss.  
COUNTY OF )

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

(notary commission expiration)

(notary signature)

Department of Local Affairs – 2004 Election Manual